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CANADIAN BANKERS' ASSOCIATION

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JOURNAL
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OCTOBER, 1907

The delay in publication of this number of the Journal has been unavoidable.—Editor.

EDITORIAL NOTES

A Rest Cure.

Two remarks by speakers at the dinner of London bankers at the Mansion House in July are worthy of special attention. The first, contained in the speech of Mr. H. H. Asquith, the Chancellor of the Exchequer, is thus reported:—"He was sometimes tempted to think it would be a good thing for all of them if they could go into a rest cure, but not for very long. The Stock Exchange should be completely closed. The publication of quotations should be sternly repressed, and for a week or two no city men should be allowed to read the daily press. After an occasional interval of that kind they would all come back with restored nerves and a clearer sense of proportion." Subsequent events in the American business world enable us to appreciate the force of this suggestion, however far from practical realization in all its fullness it may be.

Men and Laws.

In a subsequent speech, the Governor of the Bank of England dealt with the question of cash reserves, and commented on the restrictive effect of the legal proportion of 25 per cent. for New York banks. He thought that "such a system must lead to a curtailment of credit in times of pressure. While attaching the greatest importance to suitable reserves, the backbone of banking was the management of the loans and discounts. If these were used for the encouragement of legitimate commerce, and not for the fostering of rank speculation, either at home or abroad, they need not contemplate financial troubles. On the other hand, if there were to be legislation which might lead to undue interference with the responsibilities which properly belong to and must rest on the banks, then he should be afraid."

Sound bank management is even more important than good banking laws.

Canadian Paper Currency.

The issue of Dominion notes has, in recent years, increased with great rapidity, and, having passed the sixty million mark since the middle of the year, seems to be rapidly overtaking the figures of bank circulation. A closer examination suggests, however, that the Dominion circulation is by no means encroaching seriously on the field of bank currency. It is well known that the greater part of the Dominion issues are in the shape of large legal tender notes for use in inter-bank payments. In the last half-dozen years, Dominion issues have doubled, but the amount not held by chartered banks has increased by only one-half. The circulation of the notes of the banks has, in the same period, increased by over sixty per cent., or in greater proportion than the increase of active circulation of legal tenders, and, in amount, the increase of bank circulation is more than six times the increase of legal tenders in the hands of the public. The third quarter of this year shows the following average position, in round figures:—

Dominion Notes.		Active Circulation.	
Issued..	$61,144,000	Legal Tenders. ..	$13,401,000
Held by Banks ..	47,743,000	Bank Currency ..	76,320,000

While the comparison brings out the dominant position of the banks' notes, it shows how far short the amount of legal tenders in use in hand-to-hand transactions is of the uncovered issue. The increase of circulation of these Government issues will need to proceed for some years yet before it amounts to the last (1903) increase made in the fiduciary issue.

The Price of Consols.

Some surprise is expressed from time to time that, in view of the comparatively large sums available for sinking fund purposes during the last year in Great Britain, a marked effect on the price of consols has not been felt, and the market still remains depressed. It appears, however, that, of a sum of nearly nine millions sterling available for debt redemption, all but about £50,000 was applied to the redemption of unfunded debt; and that in the current financial year a good deal of the available money is likely to be similarly applied. Though redemption of any part of the public debt should operate favourably on public credit, the direct influence of the sinking fund on consols has hitherto been but slight, and this consideration may serve as a partial explanation of the depressed condition of the market in consols. The scarcity of fluid capital, affecting all classes of securities, has, as yet, had little offset in this particular case, but the effect of increased allocations to the sinking fund cannot but be felt in course of time. Even this, however, is modified by the increase in the supply of other gilt edged securities which compete in ever increasing measure with the premier British security.

Sugar Bounties.

The term for which the signatories to the Brussels Convention of 1903, aimed at the suppression of the system of sugar bounties, bound themselves expires next year, and the announcement of the British Government as to the terms on which it can remain a party to the agreement makes it doubtful whether the convention will be renewed. What action will be taken by other countries is not yet quite clear. It is hardly to be supposed that they will desire to plunge themselves once more into the difficulties from which the convention delivered them. Consumers of sugar on the European continent have benefited by a very marked reduction in price, and have largely increased their consumption during the last few years. On the other hand, the price of sugar has risen in Great Britain, partly owing to a shortage in the crops due to other circumstances, but also partly as a result of the cessation of the artificial conditions produced by the bounty-paying system. It remains to be seen how far the experience of these last years has served to convince the governments concerned, that the system of bounties was so great a disadvantage to the countries which paid them, that their continued suppression is advisable, independent of whether the markets of the British Isles remain closed to all bounty-fed sugars or not.

The House of Lords.

The plan by which the Liberal administration at Westminster proposes to deal with the legislative powers of the House of Lords must, of necessity, be examined with interest, not only in the British Isles, but throughout the British Empire. The holding of joint conferences between the two branches of a bi-cameral legislature is familiar in more than one British colony. It is clear that to endow the House of Commons with power to pass bills, in spite of opposition from the Lords, should the proposed joint committees fail to arrive at a satisfactory compromise, would avoid the necessity of an appeal to the country on every occasion of such conflict, or the alternative of dropping the proposed legislation. An appeal to the country has the great disadvantage that it is hardly possible to secure a clear answer to one, and only one, question in a general election. The motives which inspire the support of one or other of the two great parties are complex. General support of the policy of a particular administration is not, of necessity, the same thing as support of a particular measure; and disapproval of one particular measure does not imply a willingness to entrust the reins of government to the opposition. Hence it is not difficult to understand the desire of the present Government to devise a means of passing liberal measures over the heads of the Lords without the necessity of an appeal to the country on every occasion of divergence of view between the two Houses. The criticism is, nevertheless, justified that the proposed plan does not attempt the more desirable reform, namely, the securing of an upper chamber in which legislation brought forward by either of the two great parties might be subjected to effective revision. There are not a few who would much prefer a reformed and strengthened House of Lords to the present House, with its power of veto modified in the manner approved by the majority of the present House of Commons.

Self-help and Socialism,

A remarkable feature of the disturbances in the wine-growing districts of the South of France is the way in which they illustrate a rather disquieting tendency in many modern communities. Whatever be the reasons which have brought about the existing crisis, it seems to be far from clear that the legislature can remedy it by passing new laws, or is responsible for its development by reason of defects in existing legislation. If every section of the people is to turn to government to help it out of its economic difficulties, the work of government will be scarcely less than in a frankly socialistic state. Yet the situation in the South of France only affords a somewhat exceptionally striking illustration of what is going on almost everywhere. The most ardent theoretic opponents of socialist doctrines do not hesitate to demand government interference in favour of their own interests. How else can we interpret the persistent appeals for tariff adjustments in favour of particular industries? Where are we to seek the limits of the confidence that we are justified in placing in the omniscience, the discretion, the impartiality, of the small committee to whom the direction of our political affairs is for the moment entrusted? Is it not above everything desirable that, in economic matters, we should rather ask the government to restrict its efforts in securing a fair field to all and no favour to any, than seek its aid in any and every emergency?

Trade of British Possessions with Germany.

One of the points urged by Australian representatives at the Imperial Conference, was that the closing of the markets of protectionist countries to the exports of British Colonies, as an effect of the tariff policy of such countries, make it very desirable that the access to British markets should be further secured by a preferential policy. It is interesting to note that, in a recent report by the British Consul-General in Berlin, the imports from British Possessions to Germany for each of the four years, 1902-5, are stated, and show, not a growing difficulty of access for the wares of the colonies to German markets, but the reverse, and that despite the strained conditions affecting trade between Canada and Germany. In these four years, there is a progressive increase from a little under 109 million dollars to 133½ millions. In the same period the imports from British Possessions to the United Kingdom grew from 520 million dollars to 622 millions. So far as Germany is concerned, therefore, the evidence of progressive restriction in the market for goods produced by British Colonies is strikingly lacking. The German market even expanded in slightly greater proportion than the British, while the figures cited show how excellent a customer the Old Country is for the produce of the younger Britains, even without the stimulus of preferential duties.

LIMITS OF THE CONTRACTUAL OBLIGATION.

THE general rule is that a contract cannot affect any person excepting those who are actually parties to it. Thus, if Jones contracts with Smith, Robinson cannot claim the benefits or be subject to the liabilities of the contract.

Thus, in the leading case of Schmaling *v.* Thomlinson and others (6 Taunton, p. 147), the defendants, Thomlinson & Co., had employed another firm, namely, Aldibert, Becher & Co., to ship and forward a quantity of cocoa from London to Amsterdam. This firm employed the plaintiff, Schmaling, who was indebted to them, to perform the whole business, which he did without any communication with the defendants, and when he sued them for payment, their defence was that they were liable to Aldibert, Becher & Co., and to no one else. It was held that the defence was a good one, and that there was "no priority between the plaintiff and the defendants." Thus, the plaintiff could not recover from Thomlinson & Co., because he was not a party to the contract which they had entered into with Aldibert, Becher & Co.; his proper course would have been to sue the latter firm; who, in their turn, might have sued Thomlinson & Co. for payment. But, though as a general rule a contract cannot impose obligations on those who are not parties to it; yet an action does lie against third parties who maliciously induce a party to break a contract of exclusive personal service. This is illustrated by the case of Bowen *v.* Hall (6 Queen's Bench Division, p. 333). There a workman named Pearson, having a special knowledge and skill in the glazing of bricks, which gave a peculiar and exceptional value to his services, contracted with the plaintiff to work for him exclusively if required so to do, during a certain period of time (the plaintiff being reciprocally bound to employ no other person in the same kind of work during the same period), and was afterwards induced by the defendants to break the contract. It was held that the plaintiff had a right of action under these circumstances.

Similarly, as a general rule, neither liabilities nor performance can be assigned. Thus, in the case of Robson & Sharpe *v.* Drummond (Barnewall & Adolphus, Vol. 2, p. 303), Sharpe, a coachmaker, had entered into an agreement to furnish Drummond with a carriage, for the term of five years, at seventy-five guineas a year. Robson at the time was a secret partner of Sharpe, *but this was unknown to Drummond.* Accordingly, when Sharpe retired from the business, Drummond refused to go on dealing with Robson, and sent back the carriage. Sharpe & Robson brought an action against him for breach of agreement, but it was held that the "contract was personal, and that Sharpe having gone out of the business, it was competent to the defendant to consider the agreement at an end. He may have been induced to enter into the contract by reason of the confidence he reposed in Sharpe; at all events he had a right to his services in the execution of it." A liability, of course, may be assigned if the other party consents, but this is really the substitution by agreement of a new contract for the old one. [See "Novation," further on.]

We must now briefly consider the subject of assignment of debts. At Common Law (before the Judicature Act) these could not be assigned; but they could be in equity [that is to say, in the Court of Chancery].

This difference is well put by Baron Martin in the case of Liversidge *v.* Broadbent (Hurlstone & Norman, Vol. 4, p. 610), who says, "There are two legal principles which, so far as I know, have never been departed from; one is that, at common law, a debt cannot be assigned, so as to give the assignee a right to sue for it in his own name, except in the case of a negotiable instrument. . . . . That a debt may be assigned in equity there is no doubt, and I should rejoice if the scandal did not exist of there being one rule at law and another in equity. [The other principle which would be infringed by allowing this action to be maintained, is the rule of law that a bare promise cannot be the foundation of an action: 'Ex nudo pacto non oritur actio.'] "

"In Equity," says Sir Frederick Pollock, "the right of the assignee was pretty soon recognized and protected, that is, if the assignor refused to empower the assignee to sue in his name at law. Where the assignee had an easy remedy by suing in the name of the assignor, the Court of Chancery would not interfere."

The position then before the Judicature Acts was, roughly speaking, this: At Common Law debts were not assignable, but in Equity they were, *provided that notice was given to the debtor of the assignment,* and subject to all equities; for, as Lord St. Leonards says, in Mangles *v.* Dixon, "If there is one rule more perfectly established in a court of equity than another, it is this, that whoever takes an assignment of a 'chose in action' takes it subject to all the equities of the person who made the assignment." [This doctrine of notice did not apply to interests in land.]

Since the Judicature Acts there has been a fusion of law and equity, and where the two might conflict, the rules of equity are to prevail.

Negotiability.

There was, however, as is mentioned in Baron Martin's judgment quoted above, an important exception to the common law rule in the case of negotiable instruments. Of these the most common examples are bills of exchange (of which cheques* are a special class) and promissory notes. Their assignability is thus defined in Crouch *v.* Crédit Foncier of England, 8 Queen's Bench Cases, p. 382, by Blackburn, J.: "Bills of exchange and promissory notes, whether payable to order or to bearer, are by the law merchant negotiable in both senses of the word. The person who, by a genuine indorsement, or, where it is payable to bearer, by a delivery, becomes holder, may sue in his own name on the contract, and if he is a bonâ fide holder for value, he has a good title notwithstanding any defect of title in the party (whether indorser or deliverer) from whom he took it."

Thus, at Common Law, if a creditor, Smith, was owed £20 by a debtor, Jones, he could not transfer the debt to a third person, Robinson, for value (*i.e.,* sell the debt) so as to enable that third person to sue the debtor. But if Jones had given Smith a bill of exchange or a promissory note for £20; then

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* The statutory definition of a cheque is this: "A cheque is a bill of exchange drawn on a banker payable on demand."

Smith could transfer the bill or note to Robinson or any other person for value, and any person thus taking the bill or note for value could sue Jones in his own name, as the lawful holder of the negotiable instrument.

The general rule then of English law is that if A and B make a contract together, neither the rights nor the liabilities can be assigned to C, who was not a party to the contract. To this rule, as we have seen, there are some exceptions. [One of them we have not attempted to touch, namely, the assignment of interest in land, as it is a difficult subject and really pertains to the law of Real Property.]

But A can make a contract with B through C; and this is called *Agency*, because C acts as the agent of A. In fact, either party or both can employ an agent to act for them. The person employing another to act for him to effect a contract is called a principal, the person whom he employs is called his agent. Thus, a contract may be effected between Jones and Smith by the means or agency of Robinson on behalf of Jones, and Brown on behalf of Smith. In this case Jones and Smith are the *principals,* and Robinson and Brown are their respective agents.

Agency.

The general rule is that an agent to act as agent must be properly accredited; but to this there are certain exceptions. Thus, if Robinson, holding himself out as an agent for Jones, but without any real authority, makes a contract with Smith, and Jones afterwards ratifies, *i.e.*, accepts the responsibilities of the contract, then Robinson's unauthorized agency becomes valid by Jones' ratification. Thus, in Wilson *v.* Tumman, M. & G., Vol. 6, p. 242, it is laid down that, "An act done for another, by a person not assuming to act for himself, but for such other person, though without any precedent authority whatever, becomes the act of the principal, if subsequently ratified by him. In that case the principal is bound by the act, whether it be for his detriment or his advantage, and whether it be in tort or in contract." But the principal must be in contemplation at the time of the making of the contract; that is to say, he must be in actual existence, and contemplated by the would-be agent as his actual principal for a contract which is not in itself illegal.

Moreover, it must be noted that ratification may occur not only by actual words, *but also by conduct.* Thus, a husband may not have actually authorized his wife to deal with a particular tradesman, say, an expensive dressmaker. But if he for a period of time pays that tradesman's bills without demur, he is regarded as having authorized the implied agency, and he cannot suddenly refuse to pay a particular bill without first giving due notice that the implied agency, which he has ratified by his conduct, has ceased. Thus, it is laid down in Vol. 5, Queen's Bench Division, p. 403, that, "if a tradesman has had dealings with the wife upon the credit of the husband, and the husband has paid him without demur in respect of such dealings, the tradesman has a right to assume, *in the absence of notice to the contrary,* that the authority of the wife which the husband has recognized continues. *The husband's quiescence is in such cases tantamount to acquiescence,* and forbids his denying an authority which his own conduct has invited the tradesman to assume."

Again, it is the duty of a husband to support his wife; if therefore he leaves her without means of subsistence, and she incurs debt to maintain herself, she becomes his "agent from necessity." He is regarded by the law as having empowered her to act as his agent for the supply of the necessaries of life, and the tradesman who, under such circumstances, has supplied can sue the husband as the real principal, however unwilling he may be to accept the responsibility.

Where agency is once established, both the principal and agent have certain rights and certain liabilities. These we must now briefly consider.

The principal must give the agent such remuneration as may have been mutually agreed, whether it takes the form of commission or reward. Moreover, he is responsible for any acts lawfully done or for any liabilities incurred by the agent while acting within the scope of his authority, whether real or apparent. Thus, in the case of Edmunds *v.* Bushell & Jones, Law Reports, 1 Queen's Bench, p. 47. Bushell had been employed by Jones to be his agent, and manage his business. Jones (the principal) privately gave order to Bushell (his agent) not to draw and accept bills of exchange. It was, however, an ordinary feature of this particular business that the manager should draw and accept bills, and when Bushell, notwithstanding Jones' private instructions, accepted some bills, it was held that Jones, the principal, could be lawfully sued for the act of his agent, for, "if a man employs another as an agent in a character which involves a particular authority, he cannot by a secret reservation divest him of that authority."

Similarly the agent has certain duties with respect to his principal. He must exhibit ordinary diligence, properly account for any moneys or property which may be entrusted to him, and employ his general or special qualifications for the work in hand to the best of his ability. Again, he must not make any other profit out of the transaction than that which has been agreed upon between himself and his principal. Lastly, he must act as agent to establish priority of contract between his principal and a third party; he must not sell to or buy from his principal. Thus, if a solicitor be employed to sell a property, and purchase it nominally for a third party, but really for himself, the purchase cannot be enforced. This is not only law, but common sense; for an agent is bound to do his best for his principal, and it is obvious that he cannot do so, if he is at the same time secretly working for himself.

The rule that an agent must not make any other profit than that which has been agreed on by himself and his employer is really part of the same principle. Thus, in the leading case of Morison *v.* Thompson (Law Reports, 9 Queen's Bench, p. 480), Morison had employed Thompson to act as his agent in the purchase of a ship. Thompson bought the ship for his principal at the price of £9,250; but he received a secret commission from the seller's agent of the amount of £225. [As a matter of fact the seller had agreed with his agent or broker that he would allow him anything he could get for the ship above £8,500; so that what really happened was that the seller's agent made £750 and then handed part of his earnings to Thompson, presumably as a "*douceur*" for the high price obtained. This secret arrangement, however, came to Morison's ears; and when he sued Thompson for the amount, namely, £225, it was held that he was entitled to recover the money.]

We have now briefly considered the relation of the two parties where the principal is named, we must now turn to the case where an agent acts for an undisclosed principal. And here we may lay down a general principle, namely (1), an agent who enters into a contract for an unnamed principal, will be personally liable, unless he expressly contracts as agent. Similarly, an agent acting on behalf of an undisclosed principal may himself assume the character of the principal, if he so choose. Of course in such a case he will be not only able to claim the benefits, but will also be liable for the obligations of the contract. This is illustrated by the case of Schmaltz *v.* Avery, where Schmaltz, as agent for an undisclosed principal, had entered into a contract with Avery. Avery refused to complete the contract with Schmaltz, because Schmaltz had ostensibly made it "on behalf of another party." When Schmaltz sued Avery it was held that he was entitled to do so, and that having contracted for an undisclosed principal, he might adopt the rôle himself.

On the other hand, when the *existence* of the principal is undisclosed, the other party may, on discovering the existence of a principal, make his choice as to which party he will elect to deal with. But, having once made his choice, he cannot afterwards turn round and sue the other party. Nor if before discovering that he has been dealing with the agent, he sues him on the contract, can he afterwards turn round and sue the principal. Thus, Lord Cairns says, in Kendall *v.* Hamilton (Appeal Cases, Vol. 4, p. 514), "Now I take it to be clear that, where an agent contracts in his own name for an undisclosed principal, the person with whom he contracts may sue the agent, or he may sue the principal, but if he sues the agent and recovers judgment, he cannot afterwards sue the principal, even although the judgment does not result in satisfaction of the debt. . . . It would be clearly contrary to every principle of justice that the creditor who had seen and known and dealt with and given credit to the agent, should be driven to sue the principal if he does not wish to sue him, and, on the other hand, it would be equally contrary to justice that the creditor on discovering the principal, who really has had the benefit of the loan, should be prevented suing him if he wishes to do so. But it would be no less contrary to justice that the creditor should be able to sue first the agent and then the principal, when there was no contract, and when it was never the intention of the parties that he should do so."

Lastly, a principal is liable for the fraud of his agent, if the fraud be committed within the ordinary course of his employment as agent. Thus, in the case of Bawden *v.* London, Edinburgh & Glasgow Assurance Company, John Quin, the agent of the company, had called upon Bawden, who lived in Cumberland, and induced him to take out an assurance against accidents. Bawden was an illiterate man, and was almost unable to read or write, but he could write his name. He had many years previously met with an accident which had entirely destroyed the sight of one eye, and of this Quin was aware. Nevertheless, Quin induced him to fill up the form of proposal as if he had no physical infirmity. Bawden subsequently lost the use of the other eye, and when the insurance company refused to pay the sum assured to his administratrix, the Court of Appeal unanimously held that they must do so, on the ground that the knowledge of the agent (Quin) was the knowledge of his principals (the insurance company).

Discharge.

Lastly, we have to consider in what manner a contract can be discharged. This can occur in various ways, which may be classified as follows, namely, by Performance, by Consent, by Novation, by Operation of Law, by Breach, and by Impossibility of Performance.

(I.) A contract is obviously discharged by *Performance.* When both parties have done all that they respectively bound themselves to do, the contract is clearly at an end; and the legal relations of the parties cease. But it may happen that one of the parties is willing to perform what he considers his part of the contract, but the other party refuses to accept performance. Smith, for instance, may have ordered goods from Jones at the price of £5. Jones delivers the goods which Smith accepts, but Jones subsequently says that the price settled on was £5 5s. Under these circumstances Smith must offer or tender to Jones the price which he (Smith) says was the price agreed upon. He must not merely be *willing* to perform, but he must *offer* to perform his part of the contract, and this he must do by tendering the money.

(II.) A contract may be discharged by *Consent,* that is, by the mutual agreement of the parties who made it. Provided that neither party has performed his part, no consideration is needed, or rather, perhaps, we may say that A's release of B is the consideration offered for B's release of A. Each party gives up the advantage which he might have derived from the contract in return for what the other party might have derived from him. But this rule only applies to executory contracts (*i.e.*, where each party has still to perform his part). Thus, Baron Parke says, in Exchequer Reports, Vol. VI, p. 851: "Now, it is competent for both parties to an executory contract, by mutual agreement, without any satisfaction, to discharge the obligation of that contract. But an executed contract cannot be discharged except by release under seal, or by performance of the obligation, as by payment."

(III.) A contract may be discharged by Novation,* which is a term borrowed from the civil (or Roman) law, and means a substitution of a *new* (Lat. novus) contract for the old one. Any change in the form or in the parties will constitute a "novation," "which," says Lord Selborne in Scarf *v.* Jardine, 7 Appeal Cases, p. 351, "as I understand it, means this—the term being derived from the Civil Law—that there being a contract in existence, some new contract is substituted for it, either between the same parties (for that might be) or between different parties; the consideration mutually being the discharge of the old contract. A common instance of it in partnership cases is where upon the dissolution of a partnership the persons who are going to continue in business agree and undertake, as between themselves and the retiring partner, that they will assume and discharge the liabilities of the business, usually taking over the assets; and if, in that case, they give notice of that arrangement to a creditor, and ask for his accession to it, there becomes a contract between the creditor who accedes and the new firm, to the effect that he will accept their liability instead of the old liability, and, on the other hand, that they promise to pay him for that consideration." This is well illustrated by the case of Hart *v.* Alexander, Meeson & Welsby, Vol. 2, p. 484. The defendant had been a member of the firm of Alexander & Co., but on the 1st of May, 1822, he retired from the partnership. When the firm *subsequently* went bankrupt, the plaintiff, to whom they owed money, sued the retired partner. It was proved that he had dealt with the firm subsequently for several years and was aware of the change of partnership. This was held to take away the defendant's liability. Said Parke, Baron, "I apprehend the law to be now settled, that if one partner goes out of a firm, and another comes in, the debts of the old firm may, by the consent of all the three parties—the creditor, the old firm and the new firm—be transferred to the new firm."

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* The Latin definition runs thus: "*Novatio* est prioris debiti in aliam obligationem vel civilem, vel naturalem transfusio atque translatio." Ulpian Digest, 46, 2, 1.

(IV.) A contract may be discharged by Operation of Law. Thus, to give a simple illustration, if the parties to a contract not under seal transfer its terms to a deed which they both execute, then the simple contract [*i.e.,* the contract not under seal] is thereby discharged.

Similarly, the alteration of a written instrument discharges the contract, subject (in the words of Sir W. Anson) to the following rules:

"(*a*) The alteration must be made by a party to the contract, or by a stranger while the document is in the possession of a party and for his benefit." [This does not apply to an alteration made unintentionally by accident or mistake.]

"(*b*) The alteration must be made without the consent of the other party, else it would operate as a new agreement.

"(*c*) The alteration must be made in a material part. What amounts to a material alteration must needs depend upon the character of the instrument."

Again, bankruptcy, when once the bankrupt has obtained his discharge, is a general release from all debts provable under the bankruptcy (unless the court has ordered otherwise at the time of granting the discharge). The exception to this rule is in the case of liabilities incurred by fraud.

(V.) A contract may be discharged by breach, that is to say, by one of the parties to the contract breaking his agreement. Thus, if one of the parties to a contract refuses to carry out its terms, the other party may, even before the actual time of performance has arrived, sue for breach of the contract. This is well illustrated in the case of Hochster *v.* De La Tour (Ellis & Blackburn, Vol. 2, p. 678). Hochster was a courier, and he was engaged by De La Tour to accompany him for a tour on the continent for three months certain at £10 a month. The tour was to commence on the 1st of June, 1852; but the actual engagement or contract was entered into on April 12th. Before the time agreed upon had arrived, De La Tour wrote to Hochster to tell him that he had given up the idea, and should not require his services. This letter was written on May 11th. Hochster accordingly at once sued De la Tour for breach of contract, and the court held that he was entitled to do so, even though the actual date mentioned had not arrived.

But the refusal to comply with the terms of the contract must be treated as a breach and sued on; otherwise circumstances may occur which will justify the refusal owing to impossibility of performance. Thus, in the case of Avery *v.* Bowden (Ellis & Blackburn's Reports, Vol. 5, p. 714), the defendant had agreed by charter party to load a cargo on the plaintiff's ship Lebanon, at Odessa. After the ship had arrived, the defendant's agent had repeatedly told the master that he (the agent) had no cargo for the ship; and that he advised the master of the ship to go away. The master of the ship continued, however, to insist on a cargo till war was declared between Russia and Great Britain. Lord Campbell held that under these circumstances the refusal to load by the defendant's agent was justified, as the war had dissolved the contract, and it became legally impossible for the defendant to carry it out, because it became illegal for the defendant to load at a hostile port. Lord Campbell added, "According to our decision in Hochster *v.* De La Tour, to which we adhere, if the defendant, within the running days and before the declaration of war [which made the contract henceforth illegal] had positively informed the captain of the Lebanon that no cargo had been provided or would be provided for him at Odessa, ... *the captain might have treated this as a breach and renunciation of the contract.* . . . The language used by the defendant's agent before the declaration of war can hardly be considered as amounting to a renunciation of the contract; but, if it had been much stronger, we consider that it could not be considered as constituting a cause of action *after the captain still continued to insist upon having a cargo in fulfilment of the charter party.*

A similar principle obtains if one of the parties by his own deliberate action has rendered performance impossible. Thus, in the case of Planché *v.* Coulbourn & Another (Bingham's Reports, Vol. 8, p. 14), the defendants, who were publishers, were bringing out a periodical publication under the name of the Juvenile Library, and they had engaged Planché to write for it a volume upon "Costume and Ancient Armour." The plaintiff commenced the treatise, but before he had completed it, the defendants abandoned the publication of the series. It was held that the defendants had broken their contract with the plaintiff, and that the plaintiff was entitled to recover.

But where a contract consists of divisible promises, a partial breach is not sufficient to discharge the whole contract. Thus, in the case of Simpson and Another *v.* Crippin and Another (Law Reports, Queen's Bench Cases, Vol. 8, p. 14), the defendants, who were coal proprietors, had agreed to supply the plaintiffs, who were coal merchants, with from 6,000 to 8,000 tons of their best four-feet Wigan coal, properly screened, and free from slack, "to be delivered into your wagons at our collieries in equal monthly quantities . . . . at 5s. 6d. per ton." During the first month the plaintiffs only sent sufficient waggons to take 158 tons. Therefore, at the expiration of the first month, the defendants informed the plaintiffs that they would annul the contract. It was held that the breach occasioned by the plaintiffs in neglecting to take the stipulated quantity did not entitle the defendants to annul the contract (though it probably would have entitled them to succeed in an action for damages).

Similarly, if one of the parties to a contract has had the benefit of part of the consideration, he cannot claim that the contract is discharged by breach. Thus, in the case of Pust *v.* Dowie (Law Journal, Vol. 32, Queen's Bench Cases, p. 179), Captain Pust had chartered his ship, the Der West, to James Dowie, Esq., to proceed to Sydney and take a full and complete cargo for the sum of £1,550, on condition of her taking a cargo of not less than 1,000 tons. As a matter of fact the vessel was not capable of taking so large a cargo. Said Blackburn, J.:

"If when the matter was still executory the charterer had refused to put any goods on board, on the ground that the vessel was not of the capacity for which he had stipulated, I will not say that he might not have been justified in repudiating the contract altogether." But in this case the defendant had actually used the vessel; and therefore it was held that the mere breach of the condition of tonnage did not excuse his paying.

(VI.) Lastly, a contract can be discharged by Impossibility of Performance. We have already seen an instance of this in the case of Avery & Bowden, where the outbreak of the Crimean war rendered the carrying out of a contract illegal.

We may add two cases in illustration of the general principle.

In Baily *v.* De Crespigny, the defendant had leased to Baily for a long term of years buildings and land in Surrey, and had at the same time covenanted that neither he nor his assigns would allow any buildings to be erected during the lease on a paddock fronting the buildings towards the north excepting a summer house and a private chapel. The object of the covenant was, of course, that Baily's enjoyment of the premises leased should not be marred by objectionable buildings in the immediate vicinity. Subsequently, during the term of the lease, the paddock was compulsorily bought by a railway company, who erected a station there. It was held that De Crespigny was released from adhering to the actual terms of the covenant by the Act of Parliament which compelled him to assign to the railway company, and so put it out of his power to perform the covenant, or the principle of the maxim, "lex non cogit ad impossibilia."

Similarly, breach of contract is excused when the performance of it is rendered impossible by death or dangerous illness. Thus, in the case of Robinson *v.* Davison (Law Reports, Exchequer Cases, Vol. 6, p. 269), the defendant's wife, Arabella Davison, had agreed to perform at a certain musical entertainment to be given by Robinson. At the time of the performance Mrs. Davison was dangerously ill, and the court held that "her illness and consequent incapacity to perform constitute a lawful excuse for the non-performance of the contract."

R. E. Macnaghten.

ORIENTAL IMMIGRATION.

"OH, East is East, and West is West, and never the twain shall meet," wrote Kipling in his salad days, and there is no controverting the fact that he made very good verse out of it; but the question remains, now that they have met, what are we going to do about it? Poetry is good and sentiment is better, but when the Fates, with their immutable decrees, order prose, poetry and sentiment must fain take to the groves and wait the pipes of Pan and the rejuvenescence of Ideals.

Over the hind-sight of immediate history it is so easy to draw a bead on the inevitable that one is apt to make light of all obstacles to the marksmanship of statecraft. The fickle breeze of popular sentiment, which is only inchoate poesy and does not make for straight shooting, the mirage of victory, which magnifies the beauty and dims the sordidness of battle; the sympathetic fog of fighting through which all things appear red and glorious,—all these things and many more have added to the realities of the economic conflict which Canada must fight out on the shores of the Pacific in the cold chill of disillusionment which is apt to drive men to tactics which are neither fair nor philosophic.

And the worst of it is that no one is to blame, if we accept the irrefutable axiom that sentiment is one thing and self-interest another. Dai Nippon, patriotic, persevering, warring with the Bear who walks like a Man, was an inspiration to all young peoples whose destinies were endangered, or seemed to be endangered by the massive, tangible preponderance of the realities of a neighbouring State: Dai Nippon, frugal, persistent, seems no less a menace to the economic future of one of the same young peoples when it transposes its warriors into industrial combatants and seeks not territory, but the fruits of a territory.

Thanks either to the luck of Canada, which, call it what you will, has been a much more potent thing than most casual observers are willing to admit, or to the genius of statesmanship, both here and beyond the Pacific, which has served to still the eager clamourings of two easily-inflamed peoples, there is time for a careful consideration of what is best to be done before the actual steps toward solving the problem must be taken. It would, however, hardly be wise to minimize the gravity of the problem or to discount the difficulties of its solution entirely on this account.

The cold, bare facts, as set forth in the records of the Immigration Department, are as follows: Since 1901 Chinese immigrants have totalled 641; Japanese, 8,682; and Hindus, 2,960; a total Oriental immigration of 12,229, these figures including those who arrived up to the end of July last. The census of 1901 showed the number of Chinese in Canada to be 16,375, and of Japanese, 3,612. The Hindus numbered but a score or so, the net Oriental population of Canada being, consequently, about 30,000 on the first day of August. For the four years preceding 1905, there was practically no Oriental immigration, and the influx of which British Columbia complains has taken place almost wholly within the past thirteen months. During that period, the arrivals have been as follows: Chinese, 614; Japanese, 6,406; Hindus, 2,474; a total of 9,494. The total number of Japanese now in Canada is about ten thousand.

For the sake of comparison, the following official figures from the Immigration Department are of interest: The records for the twelve months ending June 30th show that the total immigration for the year was 252,038. The number of Japanese arrivals was 4,082; Chinese, 439; Hindus, 2,420; a total of 6,943, or about 2.77 per cent. of the whole. During the month of July, the total immigration was 26,325, including 2,323 Japanese, 175 Chinese, and 51 Hindus; a total of 2,549, or about 9.5 per cent of the whole number of immigrants for that month. Exactly what the proportions for the province of British Columbia are, it is impossible to say, as there is no machinery for numbering and checking the new-comers; it is sufficiently obvious, however, that but a very small proportion of the Asiatic immigrants sought homes farther east than the boundary of that province, and that the greater part of the white settlers on their way west were diverted to the farms and fields of Manitoba, Alberta and Saskatchewan, where are chiefly focussed the activities of the agencies which promote immigration.

Nor must it be forgotten that on at least three different occasions prior to the setting in motion of the great immigration movement at the conclusion of the Russo-Japanese war, there had been more or less serious ebullitions of popular feeling against Asiatic workmen. In two cases this can be more or less directly connected with similar movements originating in the Western States; in one it was a sporadic development from purely Canadian conditions, and, though the immediate symptoms disappeared, the underlying causes were never dealt with in such a way as to warrant confidence in the future immunity.

Nor are the reasons far to seek, for of all sections of the Dominion—it would scarcely be amiss to say of all similarly prosperous sections of the American continent—none are so "well organized," to borrow from the parlance of labour unions, as British Columbia. Not only are the different bodies of workmen prosperous, they have preserved and cherished the doctrine of solidarity, which is the master-word of their success. Union co-operates with union, and association with association; where similarity of economic conditions wipe out international boundaries, the unions have entered into that larger co-operation which has so far made for strength without producing political complications. In the field of practical politics, riding after riding tells the story of the lessons taught in union meetings, and shows the result of a common determination to put into practice the political ideas which the unions, although nonpartizan, seek to inculcate.

How direct the connection and how close the relationship between the labour bodies of British Columbia and those of the states of Washington, Oregon and Idaho, it would be difficult to state; the interchange of advice and ideas is, at any rate, unhampered. Consequently, when popular prejudice forced a sudden and by no means peaceful exodus of a large party of Hindu labourers from the borders of Washington, it was but natural to expect that no warm welcome would greet their arrival in British Columbia. The unfortunate incidents which followed are of too recent occurrence to need retelling. The rioting in Vancouver with its incipient sacking of the Asiatic quarter; the pronouncements of the "Asiatic Exclusion League," which seized an auspicious moment to blazon for a day the names of a number of insignificant persons in very large letters across the pages of the press of the British Empire; the callous telegraph-ings of certain city officials—all approaching the serious and yet carrying with them an unmistakable suggestion of opera bouffe, yet all emphasizing the necessity for serious statesmanlike treatment of possibly as serious an international problem in this, her fiirst year of treaty-making power, as Canada has ever been called on to face.

While the huge Pacific steamers were still disgorging their hundreds of Orientals, the Trades and Labour Council of Canada was in annual session at Winnipeg. This, the highest advisory body of trades-unionism in the Dominion, is composed of delegates from all the great labour bodies of Canada, and has long and justly been proud of the calibre of the men who assist in its deliberations. By a convincing majority, it adopted a memorial, the main clause of which called upon the Canadian Government to memorialize Great Britain to abrogate the existing treaty between Great Britain and Japan "as far as Canada was concerned," in order that Oriental immigration into Canada might be treated in the best interests of this country. For many reasons, this document is in the nature of an essential to the proper understanding of the problem which must be dealt with at the next session of Parliament. The authority of the Congress to speak for the labour-unions cannot be questioned, the phraseology of the resolution was the matter of long debate, its adoption by an overwhelming vote stamps its authenticity as representing labour-union sentiment. It reads as follows:

"To the Right Hon. Sir Wilfrid Laurier, G.C.M.G., Premier of Canada:

"The Trades and Labour Council of Canada, in convention assembled, and representing organized labour from Halifax to Vancouver, has unanimously passed the following resolution, and ask if you can assure a favourable reply to the requests embodied in it:

(1) "Whereas a crisis has arisen in British Columbia by reason of the unprecedented influx of Japanese;

(2) "And whereas the Japanese have already usurped opportunities for labour in the fisheries in British Columbia, and are threatening to entirely supplant white labour in the mines and lumbering industries;

(3) "And whereas the expulsion of white labour from the mines, lumbering and other industries of British Columbia will entail a shortage of fuel and lumber supplies this approaching winter for the people, more particularly of Western Canada;

(4) "And whereas the willingness of the Japanese to accept a lower standard of living enables them to oust from employment citizens of Canada, who have higher conceptions of moral, social and industrial well-being, and have trained themselves to conform to a standard of living more in accord with British ideas, and who are determined to maintain that standard as the surest guarantee of Canadian citizenship;

(5) "And whereas the continued influx of Japanese constitutes a menace to the predominance of British institutions by driving the white labourers out of industries and depriving them of means to maintain themselves and their families, and thus lessening the amount available for merchants, shopkeepers and other business people;

(6) "And whereas the continued importation or immigration of Japanese invariably means the departure of white labour from British Columbia to the utter loss and ruin, not only of British Columbia, but of all Canada;

(7) "And whereas the first consideration of the Dominion Government should be the welfare of the Canadian;

(8) "And whereas we believe that the best interests of Canada and the Empire will be served by respecting the autonomous rights of its component parts;

(9) "And whereas Canada has already sacrificed much for Imperial interests, as witness the recent generous contribution on Canada's behalf made by Lord Alverstone on the Alaskan boundary award;

(10) "And whereas the continuance of the Japanese Treaty Act, 1906, means the depopulation in British Columbia of white people and possibly the loss of that province altogether to the Dominion of Canada;

(11) "Therefore be it resolved:

(a) "That we respectfully but firmly ask the abrogation of the treaty so far as Canada is concerned;

(*b*) "That as a necessary preliminary to that end, the Dominion Government be urged to immediately call upon the Imperial authorities to give the six months notice required to terminate the treaty with Japan;

(c) "That, pending the termination of the treaty, the Japanese authorities be called upon to restrict the immigration of Japanese in accordance with the alleged convention that no more than 400 or 500 be allowed to come to Canada during any one year."

The indictment against the Japanese is, therefore, on the following principal charges: first, that they have already usurped opportunities for white labour in the fisheries; second, that they threaten to extend their usurpations to the mines and lumbering industries; third, that they have a lower standard of living, and, consequently, are ousting citizens with higher conceptions of moral, social and industrial (*sic*) well-being; and, fourth, that they threaten the British predominance in British Columbia. Still further analyzed, these four events resolve themselves into one charge, that the Japanese are immoral. and several economic deductions as to what will inevitably follow their failure to demand the same rate of wages as their white competitors. For the one direct charge, there has, unquestionably, been some foundation, although the immoral practices complained of have never reached a magnitude such as seemed to threaten the general morality of any community; in fact, experienced observers question if there is any more ground for complaint than would be found in the case of the same number of unskilled and uneducated labourers of any other nationality placed in the same conditions. In the deductions, however, lie the *crux* of the matter,—the age-old economic questions over whose solution the workingman and those who theorize on his conditions are still as far apart as ever.

Whatever may be thought of the *preamble,* there is no indefiniteness or lack of logic in the demand made upon the Dominion Government for the abrogation of the existing treaty in the shortest possible time, *coûte qui coûte.* The Premier did not respond directly to the telegram the Congress sent him urging this drastic and immediate action, for which he was promptly attacked by the British Columbia delegation, in conformity with immemorial custom, after which the Congress concluded its labours in peace and sought its respective homes in contentment.

That there is a minority report from the Pacific Coast in which a very different view of the situation is taken, goes without saying. Unlike the usual minority report, however, it concedes certain of the points made by the majority and is argumentative rather than antagonistic. Perhaps no better statement of the case for the employers of labour has been made than that contained in a letter to a local member of parliament during the riotous days of August from one of the best known business men of Vancouver, whose identity must, of regrettable necessity, remain concealed for the present. "I am told on good authority," he writes, "that, in the Okanagan Valley, the fruit is rotting on the ground for lack of labourers to gather it in. Hay is being cut in many fields where the men are getting $3.00 and $3.50 a day, plus their board and lodging, and it is a question if it had not better be left to rot where it is, the margin of profit, if any, being so small. Leading sawmill men tell me that, if the strike had been kept up for six weeks or so, British Columbia would be on her knees, begging the foreign workmen to take hold, because the moment they went out most of the mills had to close, as they could not pay the high wages the white workmen expect if the raw material and rough work necessary was not forthcoming. The country is large and thinly populated, and this, added to the fact that by reason of its formation it is a hard one to work, makes it necessary to have plenty of cheap labour so that the different pursuits will be brought to that state where the white man can readily take hold."

The crisis existing and the divergent opinions so freely expressed made utterances from the leaders of the two great political parties not only expedient but necessary. Mr. R. L. Borden, whose western tour had brought him to Vancouver within a week of the deliverance of the Trades and Labour Council already quoted, took advantage of the opportunity offered by the first great meeting he addressed to state his position as follows:

"If the Government will not stop it, the treaty must be observed until it is abrogated. The Government have created the condition knowingly, and after being warned, and the member for Vancouver, Mr. Macpherson, did not raise his voice in protest until too late. Let us abide by our treaties until abrogated. Let us respect the allies of Great Britain, but let us remember that there are other considerations besides trade relations and material advancement of vaster importance than those. We must not allow our shores to be overrun with Asiatics and become dominated by an alien race. British Columbia must remain a white man's country, the same blood must flow in the veins of those who build up Eastern and Western Canada as flowed in the veins of those who made Great Britain, and while we respect the grand old flag of Britain which floats over our heads, and are proud of her institutions and our loyalty, we must expect, and have a right to expect the same measure of justice meted out to us as is meted out to any other part of the Empire."

Two days later, Sir Wilfrid Laurier, in an address to the Canadian Manufacturers' Association, then in session at Toronto, made the following reference to the policy his Government would pursue in dealing with the question of Asiatic immigration:

"A section of the people in Winnipeg have called upon the British Government to annul the treaty. Well, the treaty has been in operation only two years. We are just commencing to reap the benefit, and to denounce it would be simply panic. And for my part I am not disposed, whether in this or any other action, to act in a panic. I want to look about, to enquire, to reflect, before I make up my mind, and it behooves the Canadian Government under such circumstances, under the difficulty which has arisen, to contemplate, to enquire, to reflect, and to see the best course to follow in the interests of the Canadian people. To also, without enquiry, denounce the treaty would, in my humble judgment, not be playing the part of responsible men. It shall be the duty of the Canadian Government under such circumstances to reflect, to enquire, and, if need be, to send a commission for more information, and to form their conclusion upon the conditions which they find, and be able to give a deliberate judgment."

But what of the treaty itself, and the obligation of Canada towards Japan under its clauses? Eighteen years ago, in the dawning of Japan's recognition as one of the sisterhood of civilized nations, Great Britain negotiated a treaty with the Mikado in the interests of commerce, to which Canada did not become a party owing to the exigencies of the labour situation which even at that time was embroiling the residents of the Pacific Coast. In 1905, Japan enacted legislation which seemed to restrict emigration in the interests of the great colonization plans even then maturing as a supplement to the foreseen triumph over Russia, and Canada, feeling keenly the effect of the treaty relations between Japan and the United States, which made for a freer entry into the Oriental market than was permitted to merchants of the Dominion, decided to become a party to the existing arrangement between Japan and Great Britain. In return for substantial considerations which have already borne fruit in the fields of trade and commerce, Japan received what was rather of a sentimental than practical value,—the recognition of the equality of the Japanese and the Canadian people. In other words, her people were given the right of free entry into the Dominion, a right never questioned in the case of the Doukhobors, the Gallicians and the Huns.

Japan's colonization schemes in Corea and Manchuria were, however, less successful than had been hoped, and the veterans of the Mikado's army, finding that the economic changes consequent upon the war were driving them from Japan for employment, not unreasonably turned their ideas to Hawaii and America. It should be borne in mind that the direct immigration from Japan to Canada has been practically a negligible quantity, most of the new-comers having been relayed hither, as it were, through Hawaii, and that, consequently, the agreement or rather understanding on which the Canadian Parliament acted has not been officially set aside. It is on this point that the hopes of a satisfactory issue of the negotiations shortly to be entered into between the Hon. Mr. Lemieux and the advisers of the Emperor of Japan chiefly centre. A solution which does not injure the *amour propre* of the Japanese, and at the same time restores the status of 1905, is distinctly within the horizon of possibilities; yet it is only necessary to go back a few weeks to read the openly expressed opinion of Senator Cox, then on a visit to Calgary, that Canada should be open to the labour of every country, Oriental as well as Occidental, and that the $17,000,000 waiting in British banks to defray the cost of constructing the Grand Trunk Pacific is cogent to neutralize for the west the undesirable result of the employment of Asiatic labour, and Senator Cox's views carry weight not only with the Government, but with the people of Canada.

It is safe to say that no move on the economic chess-board of the last two decades has opened up the possibilities of a complicated game more effectively than the Vancouver riots. A false move on either side would be fraught with portentous possibilities, and the opening has rendered necessary a development of the game never before played to a conclusion in any commonwealth. The price of the conquest of this, the Twentieth Century, is not so much a matter of enthusiasm as of statesmanship and patriotism, and we have not gone far in the first decade without finding ourselves put to the proof.

JOHN S. LEWIS, JUN.

OVER-LEGISLATION AND NON-ENFORCEMENT.

"I'M for the law but agin its enforcement," a certain politician is reported to have observed, in reference to a sumptuary law. The London *Spectator,* taking this remark seriously and as a text, declared in its issue of August 24, 1907: "The man who is for a law but against its enforcement is a national disgrace and a national danger. Those who tolerate and are amused by such an attitude can expect nothing but scandal heaped upon scandal, and gradual degradation of every social and political institution."

The number of laws that are defied with impunity is undoubtedly one of the most threatening phenomena of our day. The non-enforcement of statutes prohibiting the sale of stimulants is notorious. Ultra-sabbatarian ordinances are also "more honoured in the breach than the observance." Game laws are a little better enforced, perhaps, but constables and magistrates are often apt to shut both eyes when the delinquent belongs to the right party and can influence a few votes. About half of the lobsters exported from the Maritime Provinces, I am told, are under the regulation size. Election laws have been flagrantly broken or evaded everywhere, though lately there seems to be a growing demand for their stricter enforcement. It is said that some steamers plying between Canadian and United States ports have been carrying, without prosecution and fortunately without mishap, hundreds of passengers more than their licenses permit.

In the United States the laws against murder are generally evaded by the lawyers. In the case of lynching they are evaded by public opinion. The statutes against compounding felony are not perhaps so flagrantly transgressed in the United States and Canada as they were some years ago; but they are still eluded with impunity by institutions as well as individuals. Thirty or forty years ago an adventurer arrived in New York and noted the frequency of advertisements of lost property, offering rewards and promising that no questions would be asked. If public opinion and the authorities permitted these compromises with thieves, he determined to profit by the laxity. He liberally advertised an "Office for the Return of Lost Property." He was approached by both losers and thieves; he negotiated between them, took their fees and kept their confidences. He did a prosperous business for some months, but closed it promptly when the *Tribune* printed a paragraph exposing the character of his industry.

The public are sometimes fearsomely threatened with pains and penalties that experience has taught them to smile at. More than one warning to trespassers declares that anyone trespassing will be prosecuted, when the intention of the authorities was to *threaten* that anyone *found* trespassing would be proceeded against; but not really to molest any trespasser at all, detected or undetected, unless, perhaps, some friendless and voteless stranger. In one Canadian city, where there is a public ordinance against spitting on the sidewalks as well as a private ordinance of the tram company against spitting in their cars, I am not aware that either interdict has ever been enforced by a penalty. Sometime ago a lady called the attention of a tram conductor to a violation of the company's regulation, and he merely shrugged his shoulders. Soon afterwards she observed a man spitting on the sidewalk and was about to inform a policeman when he himself perpetrated the same breach of good manners. In certain highly ornamental and well-kept public grounds there has been for many years a notice posted that "all dogs" found within the inclosure "will be destroyed." It is possible that some unrecorded executions of canine trespassers may have occurred, but as a rule they are chased from the grounds without any effort to destroy them. Indeed, I have seen respectable citizens accompanied by well-behaved dogs pass through the grounds in reasonable disregard of the scare-crow notice. We cannot suppose that churches bluff, and so we must credit them with repentance when they fail to enforce the penalties of minor excommunication which they may rashly pronounce against the sale of stimulants or against dancing or some other peccadillo that may be the popular scapegoat of the parish and the hour.

Some cities threaten tardy ratepayers with penalties that are seldom enacted. Most cities have ordinances against the obstruction of the sidewalks, either by packages or by groups of loitering loafers, but these ordinances are seldom impartially enforced. How many towns fairly and uniformly exact the prescribed forfeits from delinquent contractors? How many towns collect their dog-taxes without exceptions dictated by fear or favour? How many strictly execute their ordinances against vehicles plying without lights after nightfall or against children sliding in the streets?

The governing committees of clubs and societies, with some honourable exceptions, are apt to overlook breaches of the by-laws by popular or influential members:

> "That in the Captain 's but a choleric word
> Which in the soldier is flat blasphemy."

The discussion of religion or politics or both is forbidden in a great many social clubs, but how often is this prohibition enforced? Even a law-making body has been known to set a bad example of disregard for regulations. At least one Canadian legislature has for many years published a notice early in the legislative session that no private bills would be received after a specified date, and this annual notice has been annually ignored.

* * * * * * * *

This widespread remissness in the enforcement of law is due to a combination of causes. There is a lack of moral courage among us. Our officials are apt to condone illegalities from a mistaken kindness or from the pressure of local opinion. The false doctrine that there are two codes of morality, one for politics and one for private life, salves the consciences of some personally honest officials when they overlook irregularities whose exposure might alienate partizans. Some officials, I daresay, may regard pecuniary inducements to shut their eyes as merely one of the perquisites of office.

Healthy public spirit is almost dormant in Canada, and the clergy and the press, with some honourable exceptions, have until lately taken little pains to awaken it. "What is everybody's business is nobody's business," if not a moral truth, is too generally our rule of action. The most popular way of displaying our public spirit is not to denounce remediable abuses but to boast of our many virtues.

But the most potent of the causes that have effected the present neglect of law is over-legislation. (*a*) There are too many laws enacted, and (*b*) of these laws too many are outside the proper sphere of legislation and invite evasion by antagonizing the principles of numerous worthy individuals.

(*a*) The statutes of England for more than five centuries, from the ninth year of Henry III to the first year of George III, are printed complete in 23 octavo volumes of moderate thickness. From the latter years of George III to the latter years of Victoria the British statutes of each year fill a whole quarto (and sometimes two), with a larger average number of pages. Of late years the annual British statutes have been considerably reduced in bulk, but this is probably more due to the congestion of the Parliament and the delegation of some of its functions to other bodies, than to any concerted effort to curtail the volume of legislation. The increase in British statute-making in the eighteenth and nineteenth centuries is significant, though much of it was necessitated by the legislative unions with Scotland and Ireland, by the progressive complexity of civilization, and by the growth of the population and dependencies of Great Britain.

Still more significant is the disproportionate bulk of the acts passed by colonial legislatures. For the past ten years not only the Dominion statutes, but those of each of the larger Provinces—of Ontario, Quebec, Nova Scotia, Manitoba and British Columbia—exceed in volume the Public Statutes of Great Britain. All this creates a presumption of hasty legislation, which will be fortified by a cursory examination of some volumes of Provincial statutes. It will be found that a large portion of them is devoted to the amendment or repeal of very recent acts. Possibly the holding of biennial sessions by Provincial legislatures might improve the quality and lessen the bulk of their statute-books. They would then have more time to think over laws and less time to pass them, for it is not likely that the biennial sessions would be twice as long as the annual ones. Only seven of the fifty-one States and Territories of the great Republic now hold annual sessions, while one of them, Alabama, legislates quadrennially.

(*b*) But the multiplicity of our laws and ordinances does not conduce to their non-observance so effectually as the objectionable character of some of them. Dictatorial moralists have induced legislatures to enact laws that trespass upon liberty; laws that repel the sympathy and co-operation of many worthy citizens; laws conflicting with the plan of Providence that surrounds us with tempting objects and gives us the privilege and the responsibility of free will; laws prohibiting the use as well as the abuse of products or amusements that may be harmlessly enjoyed without encroaching on our neighbours' rights; laws that treat men as children, and are variously designated as sumptuary or inquisitorial, paternal or grandmotherly.

"A law," said Sir Henry Summer Mains, "is a command, imposing a duty, and enforced by a sanction or penalty." Blackstone, too, defines municipal law as a rule of civil conduct "commanding what is right and prohibiting what is wrong." A statute that does not impose a duty lacks one essential element of a law. We are morally justified in disobeying any order which its giver has no moral right to issue. Whether it is *expedient* to obey a tyrant's arbitrary edicts depends on the strength of the tyrant. It is immaterial whether the tyrant have one or many heads. A majority of the population of a whole country cannot morally bind us to act against our consciences or to abandon our rights passively; much less can a majority of the population of any particular nook or corner.

Every individual is the creature of his Creator, not of his fellow men. We all believe He has given us consciences, most of us believe He has given us a revelation to guide us aright. Vengeance is His prerogative, if we misuse the power He has given us of choosing between right and wrong. Our Maker, not our country or our county, is our Father; and to our Maker, not to our country or our county, a father's rights over us properly belong. Society, then, has no right to make laws or provide penalties for us, except in self-defence. It has a right to legislate against violence and fraud—to tax its members for the necessary expenses of government—to protect the life and property of its members by effective enactments against assailants—to defend us vigorously against each other. To defend us against ourselves by statute, even against the habits or opinions that our neighbours may think most destructive to our bodies and souls, is to usurp the paternal rights and to assume the paternal duties of God. It is the Inquisition modernized.

It is true that a person going to the bad is likely to prove a nuisance or to do a wrong to his neighbour. Therefore the law properly intervenes to deter—and were it sternly administered, would more effectually deter—intemperance from going so far as disorderly drunkenness, extravagance from leading to theft, speculation from resulting in forgery, sensuality from culminating in outrage, ill-temper from producing manslaughter.

These direct wrongs to itself society rightly punishes in self-defence. There are also indirect evils to society arising from almost every vice, even before it becomes a crime. But the indirect claims of society are endless and complex. In legislating it is generally safer to leave them out of consideration, like the indirect damages in the Alabama arbitration, as being too difficult to adjudicate upon.

Should we, then, do nothing to save an unstable fellow-creature from disgracing his family and himself, and drifting to penury and despair? By no means; but this is a matter of morals and education, not of law; it is the province of persuasion, not of force, at least in the case of adults. If you are the father of such a person, try your warnings and advice; if his pastor, try your arguments; if his friend, try your entreaties; if his wife, try your forbearance; if his mother, try your tears; if a Christian, try your prayers. In some cases you might awaken in him a clear sense of his position by denying him permission to your home.

It is quite true that no amount of moral persuasion will entirely protect men from their evil passions, but communities are not therefore justified in exceeding their rights. Women will still sink from respectability to shame, but we should not therefore interdict the meetings of lovers; clerks will still gamble away their employers' money, but we should not therefore prohibit innocent games of cards; ladies will still impair their health by tight clothes, but we should not therefore confine them by statute to sandals and shawls and blankets; men will still become sots (seldom, we believe, if all friends of temperance would do as we suggested), but we should not therefore taboo the right of drinking stimulants, so far as it does not directly clash with other people's rights.

Of course statutes that (like the Lemieux Conciliation Act in Canada) provide no enforcible penalties for their infringement directly invite defiance.

Though it is not the duty of a citizen to obey a tyrannical order, yet all persons sworn to execute the laws should endeavour to do so without discrimination. The successful evasion or defiance of improper laws, smiled at by respected citizens, increases the deplorable tolerance of the public for law-breaking in general and saps the prestige and sanctity of the whole body of law. And a rigid enforcement of an objectionable statute is a pretty sure means of effecting its repeal. Officials who neglect to carry out the laws are passive anarchists, almost as dangerous to the commonwealth as active ones. Nevertheless, while human nature remains unchanged, no efficient general and continuous effort is likely to be made to enforce any law that numerous citizens believe to interfere duly with private habits or personal liberty. For magistrates and juries are loath to convict persons infringing such statutes, and it is commonly thought mean to inform against them. The prejudice against informing has indeed spread so far as to shelter the violators of salutary laws also, and some people, not criminals themselves, would hesitate to expose any crime short of burglary or murder.

Judge Forbes, of New Brunswick, not long ago commented on the alarming increase of perjury. This is owing to its general impunity, as well as to the inclination of witnesses to shield defendants against what the witnesses deem improper or tyrannical laws. Juries, too, are apt to bring in verdicts of acquittal against the evidence when they think the penalties unduly severe, as in cases of infanticide by unmarried mothers. The posthumous penalties cruelly imposed upon suicides are nullified by charitable jurymen, which almost invariably attribute the act of the deceased to temporary insanity.

It is not the amount of food you eat, but the amount you digest that nourishes you. It is not the number of laws it makes, but the number of wholesome laws which it can and does enforce that benefits and exalts a state.

F. BLAKE CROFTON.

ON THE CULTIVATION OF ONE'S BANKER.

A HOMILY.

"Make unto Yourselves Friends of the Mammon of Unrighteousness."

THIS is what Fra Elbertus, the sage of East Aurora, would call a "preachment." And as every sermon requires a text, I have chosen the above. It is one which neither Bishop nor Curate has ever explained to my satisfaction, although many times have I heard them struggle with it. How admirably it is adapted to my purpose, and how easy of comprehension it is to the most ordinary intellect is demonstrable in few words. The Mammon of Unrighteousness (ask any Western man) typifies the banks. That they represent Mammon, in their lust for gold to glut their vaults and swell their reserves, is plain, and the unrighteousness of it, when the coin is so urgently required for land speculation, the carrying of stocks and grain, the accumulation of goods and the warehousing thereof, for promotion, exploitation, and expansion, is plainer still. How doth the boomster view with wrath the passing of the days when the obsequious manager strove to be first amongst his fellows to offer the resources and facilities of the institution to further his customers' plans and projects, when credit was offered unsought, when an account was gobbled up if it had a few stale crumbs of profit sticking to it! Now, alas, a larded fillet attracts scarcely a sniff, and the knees of the pilgrims are wearing the threshold of the banker's office, who lately could scarce keep soles on his business-hunting boots.

We have in this country been heading for a condition of things which, periodically, begets trouble and confusion in the land to the south of us. The lesson there is never learned, for, when ease once more succeeds stringency, the old abominations are resorted to, and men forget the preacher who hath a hearing only in the day of adversity. But the duty of the preacher is to preach though his preaching be vain.

First, let me point out the error. It lies in the growing tendency to regard one's banker as an enemy rather than a friend. He is rapacious, inquisitorial, unreasonable. Rapacious in his greed for inordinate (?) profit, inquisitorial in his desire to probe his clients' business secrets, unreasonable in his idea of adequate facilities and credit. Therefore he is offered an account squeezed dry of all but the last drop of profit, stripped of all collateral advantages and divested of the last vestige of desirability, acceptable only because the other fellow might take it. Even the bank which for years has nourished a customer, fertilized his bare plot of earth with gold and watered his seedlings with advice, tasteth not of the increase thereof, for the late stranger who has borne neither the burden nor heat of the day is eager to tend the garden for the husks that are cast therefrom.

And thus it has come to pass that of all expert services rendered to business men, those of the banker, while the most important, are the least adequately remunerated. An architect employed to design a house receives his fair commission, a lawyer exacts his fee, the doctor estimates his patient's means and charges accordingly. But the banker builds the fabric of his client's credit and looks after his financial health, discounts for him at the lowest rates, gives him interest on his daily balances, cashes his cheques at par at all his branches, collects for him free where he has branches and at cost where he hasn't, and loses his foreign exchange business because any competitor will take it at a loss in the hope of attracting the rest of the account his way. Then, when the independent merchant has succeeded in throttling his banker to the above extent, he becomes seized with the idea that his paper is practically a circulating medium, and breaks the most important tie by offering it all over this country, and the next, through brokers. Is it any wonder that by this procedure he unwittingly makes himself a commercial tramp, an outcast, without a reasonable claim to assistance in times of need, and has he any one but himself to blame, if, when days of stress come, as come they will, *and come they have,* his "Lord! Lord!" is answered by "I know you not"?

Several of the largest manufacturing concerns in the United States have, in the last few weeks, failed for the reason just stated. I quote an American friend who thus expounds the economic gospel:—

"The strained situation in commercial circles is due to the fact that in years past a number of the strong houses here have done their financing through note brokers, who spread their paper all over the country. It being so easy to get money this way, they have, in many cases, neglected cultivating or arranging for banking facilities adequate to their needs in such times of stress as we are in now. These houses now find themselves with their paper maturing, the present holders unwilling to renew and no banking facilities at home to which they can turn. To my certain knowledge two large houses have come down from just this cause; both of them are apparently perfectly solvent and will pay their creditors one hundred cents on the dollar."

The tendency, now so manifest in the neighbouring republic, to regard all concentration and combination of capital as inimical to the public welfare, has lately been growing in Canada, and has shown itself in hostility to what is termed Banking monopoly. No uncentralized, non-monopolistic Banking system could ever meet the needs of a country such as ours. The possibilities of disaster contained in a disjointed, localized, unelastic system, current events in the United States fully illustrate. Elaborate legislative restrictions and perfunctory government examination, the outward show of solidarity in great Clearing House Associations and spectacular junketing conventions, fail to keep together public confidence in days of crisis. In view of what has happened south of us, are all the amateur financiers, professional politicians and penny-a-liners to be let loose at our admirable system, which is the foundation, the safeguard and the pride of commercial Canada to-day? In times of financial unrest a strong Banking situation is the breakwater which keeps the waves of panic from buffeting the rich and overwhelming the poor. Every dollar of added prosperity means one hundred cents in additional safety. It is not good policy to grind your Banker down to the last livable profit, nor to direct towards him the attack of every howling demagogue in the land. He may be to you the Mammon of Unrighteousness, but, try him as a friend.

A. R. Doble.

RESPONSIBILITY FOR FALSE ANSWERS GIVEN BY INSURANCE AGENT AND SIGNED BY ASSURED.

By Charles M. Holt, K.C.

IT is a common practice with insurance brokers and agents to themselves fill in the answers to the questions in the application for insurance. The insured then signs the application, often without reading the answers, and leaving the matter of their correctness entirely in the hands of the agent.

The question whether the Company or the insured is responsible for false answers so inserted in the application is one of great practical interest, and one that has given rise to many interesting and divergent legal decisions. The question was dealt with very recently by the Court of Appeals of Quebec. While it would be out of place to pronounce an opinion in any authoritative way, as the last mentioned decision is now before the Supreme Court of Canada, it may be permissible to give a brief *résumé* of the decisions already rendered, and which were accepted as laying down the true doctrine by the Quebec Court of Appeals.

In the case of The Norwich Union vs. LeBel, 29 S. C. R. 470, the Supreme Court decided that where false answers were written by a subagent who knew their falsity, and the assured signed them, the false answers voided the policy.

Sedgewick, J., in delivering the judgment of the Court, said at p. 477: " It is clear to me that they both (the agent and the " insured) participated with a view to their common benefit in " misrepresenting the true facts upon a point most material to " the Company in determining upon the risk, and the plaintiff " must therefore bear the necessary consequences which such " conduct involves. It does not therefore appear to be necessary " to discuss the application which purports to make the agent, " where he fills up the blanks in the application, the agent of the " assured instead of the agent of the Company. Being in collu-" sion for the purpose of *perpetrating a fraud upon the Company* " for their joint benefit, neither of them can contend that Mc-" Allister was the Company's agent *for that purpose.*"

And in Providential Savings Life Assurance Co. v. Mowat, 32 S. C. R., at p. 172 the doctrine laid down in the English case of Biggar v. Rock Life Assurance Co. (1902), 1 K. B. 516, and in the Fletcher decision of the United States Supreme Court, New York Life Insurance Co. v. Fletcher, 117 U. S. R. 519, was quoted as the true one.

Mills, J., in rendering judgment, said (Provident Savings Co. v. Mowat, 32 S. C. R., at p. 172): "It is important to "consider whether or not the law would excuse him for not "having read his policy of insurance. By the case of Biggar v. "The Rock Life Assurance Co. (1902), 1 K. B. 516, decided in "the King's Bench, 1901, it was held that it was the duty of the "applicant to read the answers in a proposal made by him for "insurance before signing it, and that he must be taken to have "read and adopted them; and secondly, that in filling in false "answers in the proposal, the agent of the company who did so "was acting, not as agent of the insurance company, but as the "agent of the applicant. In that case the agent falsified "Biggar's answers to a series of questions in his proposal. "Biggar signed the proposal without reading it. His attention "was not called to the questions and answers. These false "statements afforded a good defence to the company. Wright, "J., who presided at the trial, held that the correctness of the "answers was a condition precedent to the validity of the policy. "He said that the plaintiff was disentitled to recover because he "signed a paper containing certain other particulars, and "especially the statement that no company had ever declined to "assure him or to renew his policy.

"'I am inclined,' said Mr. Justice Wright, 'to think that "this is, of itself, sufficient to prevent him from having any "claim against the company.'

"But he did not rest his decision on this ground, but adopted the principles which were laid down by the Supreme Court of the United States in The New York Life Insurance Co. v. Fletcher (117 U. S. R. 519).

"In that case the opinion of the whole court was delivered by Mr. Justice Field, of which Wright, J., says:

"'I agree with the view taken by the Superior Court in that "case, and apparently in other cases there cited, that if a person "in the position of a claimant choose to sign, without reading it, "a proposal form which somebody else fills in, and if he "acquiesces in that being sent in as signed by him, without "taking the trouble to read it, he must be treated as having "adopted it.'"

Mills, J., continued at p. 173: "Business could not be "carried on, if that were not the law. On that ground I think "the claimant is in great difficulty. The court held that the "agent in filling in the answers in the proposal which Biggar "signed, was acting as Biggar's agent, and not as the agent of "the company. It cannot be imagined that the agent of the "insurance company can be treated as its agent to invent the "answers to the questions in the proposal form. In this case "as the untruthfulness of the answers in the proposal were "known to Biggar, it was his duty to see that they were correct. "Reasonable diligence and good faith were alike required. In "that case the insured had it in his power to prevent the "misrepresentation and the insurer had not."

In the case of Shannon v. Hastings Mutual Insurance Co., 2 S. C. R. 394, Ritchie, J., thus expressed himself at p. 406: "The insurance was pressed on plaintiff by the agent of the Company authorized to obtain insurances for the Company, and when so pressed to insure, Morris, the agent, was taken through the grist mill and all around the place, and after that undertook to make out, with the assistance of an amanuensis selected by himself, the application; *this he did as plaintiff's agent—if adopted by him.*"

The case of Kneisely v. British American Assurance Co., 32 O. R. 376 (1900), reviewed previous decisions on the point.

The Fletcher case referred to as containing the true doctrine by the Supreme Court and by the English Courts in the two very recent cases referred to below (Biggar vs. Rock Life Ass Co. and Life and Health Assce. vs. Yule) was a decision of the United States Supreme Court, in which previous decisions were reviewed.

The statement of facts and the holdings in these cases are as follows:

(1) "*New York Life Insurance Co.* vs. *Fletcher,*" 117 U. S. 519.

"A person applied in St. Louis to an agent of a New York insurance company, for insurance on his life. The agent, under general instructions, questioned him on subjects material to the risk. He made answers which, if correctly written down, and transmitted to the company, would have probably caused it to decline the risk. The agent, without the knowledge of the applicant, wrote down false answers, concealing the truth, which were signed by the applicant without reading, and by the agent transmitted to the company, and the company thereupon assumed the risk. It was conditioned in the policy that the answers were part of it, that no statement to the agent not thus transmitted should be binding on his principal; and a copy of the answers with these conditions conspicuously printed upon it accompanied the policy. Held: That the policy was void.

"Insurance Co. vs. Wilkinson, 13 Wall 222, and Insurance Co. vs. Mahone, 21 Wall 152, distinguished.

"If an applicant for life insurance is required to answer questions relating to material facts in writing, and to subscribe his name thereto as part of the application upon which the policy is issued, it is his duty to read the answers before signing them, and it will be presumed that he did read them.

"If a policy for life insurance in which premiums have been paid is void by reason of untrue representations as to material facts in the application, made without design on the part of the applicant, the only recovery which can be had on the policy after the assured's death is for the premiums paid on it."

(2) "*Biggar* vs. *Rock Life Assurance Co.*," L. R. (1902), 1 K. B. 516.

"A policy of insurance against accident was effected with an insurance company through their local agent. The proposal form was filled up by the agent, many of the answers filled in by him being false in material respects; the false answers were inserted without the knowledge of the applicant, who signed the proposal form without reading it. The proposal contained a declaration in which the applicant agreed that the statements in the proposal should form the basis of the policy, and the policy contained a proviso that it was granted on the express condition of the truthfulness of the statements in the proposal. Shortly after payment of premium the insured was accidentally injured: Held, first, that it was the duty of the applicant to read the answers in the proposal before signing it, and that he must be taken to have read and adopted them; and secondly, that in filling in the false answers in the proposal, the agent was acting not as an agent of the insurance company, but as an agent of the applicant; and that therefore the policy was void."

(3) "*Life and Health Assurance Co.* vs. *Yule,*" 6 F. 437 (Ct. of Sess.) and Mews Annual Digest, 1904, p. 155.

"The agent of an insurance company called on Y., a milk purveyor, and asked him to take out a policy against driving accidents. Y. consented, but being busy at the time requested the agent to fill up the proposal form. The agent did so, without asking Y. what answers to make to the questions in the proposal form, and the form so filled up, concluding that the statements therein were true to the best of the proposer's knowledge and belief, was signed by Y. without reading it over. Following on the proposal a policy of insurance was issued to Y., one of the conditions of which was any misstatement in the proposal the policy should be void. To one of the questions in the proposal, 'Has any accident happened in connection with the vehicles or horses now in your use?' the agent inserted the answer, 'No.' This answer was untrue, the fact being, as Y. knew, that one horse and one vehicle which had each been concerned in an accident were still in use by Y. at the date of the proposal. The damage caused by these two accidents was trifling. In an action of the insurance company against Y. to have the policy set aside: Held, first, that the answer to the question above quoted was a misstatement of a fact material to the policy; and secondly, that the agent in filling in the false answer to the question was acting as an agent for Y. and not of the insurance company, and that Y. must be held to have read and adopted the answer; and therefore, thirdly, that the policy was void."

(4) "*Kneisely* vs. *British America Assurance Co.,*" 32 O. R. 376 (1900).

"An application for insurance on the contents of a barn contained the question, 'Is there any incendiary danger threatened or apprehended?' to which the answer was, 'No.' The plaintiff, who had not previously carried any insurance, stated that he effected the insurance, having learned that the owner of the barn had placed a high insurance on it, as well as on the adjacent dwelling-house. This was told by the plaintiff to the company's agent, who filled in the application and the answers to the questions. The application was then signed by the applicant, who was not an illiterate man, but he did not read over the application, and was not told that the question had been answered in the negative: Held, that the plaintiff was bound by his untrue answer to the question, it being material to the risk, for the reasonable inference was that the apprehension of incendiary danger as a fact existed.

"Graham vs. Ontario Mutual Ins. Co. (1887), 14 O. R. 318; Chatillon vs. Canadian Mutual Fire Co. (1877), 27 C. P. 450, was considered and commented on."

The English case of Bowden vs. London, Edinburgh & Glasgow Ins. Co., L. R., 2 Q. B. 534, was carefully considered in Levy vs. Scottish Employers Ins. Co. (1901), 17 Times Law Reports, at p. 229 and 230, and it was there pointed out that it turned on the special terms of the contract in that case, and that it only decided that, *under the circumstances of that case,* the agent was the agent of the Company to settle the terms of the proposal.

In Bowden's case there was no specific false answer, merely a statement that he had no physical disability, and this was held to be qualified by the agent's knowledge that he had only one eye.

There was no evidence in that case as to the extent of the agent's authority. Moreover, it was a case of neglect on his part to endorse on the policy *as directed* particulars of deviation.

The Quebec Court of Appeals in the recent case above referred to* maintained the doctrine laid down in the above cases. That case is now before the Supreme Court of Canada and a decision may be expected next month.

There are a number of American decisions which run directly contrary to the doctrine expressed above, and which hold that, under various statutory regulations and under a state of facts peculiar to each of the cases cited, the knowledge of the Company's agent filling in the answers must be held to be the knowledge of the Company and cannot be repudiated by the Company.

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*Since the above was written the Supreme Court of Canada has confirmed the judgment of the Quebec Court of Appeals, 8 Oct., 1907.

In France the contract of insurance has not been developed to the extent it has in England and in the United States, and in the writer's opinion the French authorities are not applicable. Nor will much weight be given to the American cases on this question.

COMMERCIAL CRISES.

III.

A. W. Flux.

AFTER the clearance of rotten houses effected in the panic of 1866, and as a more or less direct result of the panic, the dull period of depressed trade commonly experienced after a panic was, in due course, developed. The sequence of events since that time, however, is not easy to fit into the general scheme which a consideration of the half-century ending at that date seems to indicate as the regular routine.

It is true that regarding the crisis of May, 1866, as a premature outbreak of what was not due till 1867 or 1868, we may find the sequence of crises at intervals of ten or eleven years fairly accurately continued by the 1878 and 1890 crises.

In 1878 occurred the series of commercial and financial disasters which are recalled by the enumeration of the names of the City of Glasgow Bank, the West of England Bank, Messrs. Tweed, Williams & Co., the Helston Bank, the Rochdale Bank, and other firms involved with the first named or affected by the wave of discredit to which its failure gave rise. The first two of these were by far the most important; in fact, the first outweighs all the rest. Its liabilities were estimated at near £14,000,000 at the date of its failure on October 2nd, 1878, and all but one-half of this was "deficiency." Eleven firms dependent on the City Bank gave way as a result of its failure. Their total liabilities were rather over £7,000,000, being nearly accounted for by the bank's deficiency. The largest of these were Smith, Fleming & Co., of London (liabilities £3,000,000), James Morton & Co., of Glasgow and London (liabilities £2,500,000), and Matthews, Buchanan & Co., of Glasgow and London (liabilities, £1,350,000). Among half a score of other firms which suspended during that month of October, 1878, was Heugh Balfour & Co., of Manchester, with liabilities of £1,800,000.

The investigation of the affairs of the City of Glasgow showed that the grossest mismanagement had been displayed in the conduct of its business. A sum of £973,300 had been deducted from the amount of its acceptances and from the foreign and colonial credits account for each year since 1873 in making up the accounts. Throughout 1878 the return of gold held, by which the amount of notes the bank could issue was determined, had been incorrectly made, the deficiency here reaching to no less than £300,000 on the 21st September. The circulation on the Saturday before the stoppage was, in fact, nearly £280,000 in excess of that which the actual holding of gold rendered legal. Other falsifications of the accounts besides these were also reported by the investigators. The bank further held £153,536 of its own stock. The manager and directors were prosecuted and sentenced to terms of imprisonment.

The shareholders had been hoodwinked, losses made had been systematically hidden, and all the time dividends declared, 10 per cent. in 1874, then in consecutive years 11, 11, 12, and again 12 per cent. in 1878. Between 1,200 and 1,300 shareholders had to bear the brunt of the misfortune, arising out of the systematic continuance of support, to ever greater and greater extent, to firms hopelessly insolvent. The liability of shareholders was unlimited, and thence arose the curious result that the Caledonian Bank, having taken some £400 of stock as a security for an advance, was compelled to close its own doors on December 4th till an arrangement could be made in reference to its liabilities. Rarely has such a case occurred of banking mismanagement in Scotland, but tremendous was the ruin which it caused. One of its results was the adoption of the principle of limited liability by joint-stock banks and changes in the law for that purpose.

To lighten the distress caused by the collapse, the other Scotch banks combined to guarantee the note issue of the City Bank and also arranged to pay to depositors one-half of what was due to them on transference of the claim, agreeing to account for the balance as it might be recovered from the bankrupt estate. Bank shares naturally dropped heavily, and, in fact, between October 1st and the end of the year, shares of Scotch banks lost some 30 per cent. of the market valuation assigned them at the earlier date. English banks also suffered but in a less degree. The discredit, in fact, caused a loss in market value exceeding considerably the losses caused by the failures (amounting, in fact to near £24,000,000, cf. *Bankers' Magazine,* 1879, p. 294). On the cases of the Caledonian Bank and the West of England Bank I do not propose to dwell. The former's liabilities were about one and one-half millions, those of the latter between five and five and one-half millions. The West of England Bank had a considerable lock-up of capital, as a result, in part, of the failure, in 1875, of the Aberdare and Plymouth Iron & Coal Works, which was considerably indebted to the bank. The Bank of England having, at the time of the City of Glasgow Bank failure, a reserve of nearly 11 millions, was not threatened by the stress. The bank-rate had been raised to 5 per cent. in August. It was further raised to 6 per cent. on October 14, but reduced to 5 again on November 21st, a little over five weeks later. By April it had fallen to 2 per cent. and the strain was quite relaxed.

In 1890 circumstances were different to those of 1878. As the sequence of a rise in prices and a development of business and speculative activity, loanable capital became scarce, and the difficulties of a great house heavily involved caused trouble throughout English business circles. The commanding position of Baring Brothers & Co. made their fall attract attention, as had occurred on similar occasions before when leading houses collapsed. But it cannot be too much insisted on that the business crisis did not occur because Barings failed, but that Barings failed because of the condition of business affairs, which disabled them from any longer carrying the immense burden of obligations which had been gradually growing on them. Their liabilities were £30,300,000. I need not go in any detail into the history of the affair. The failure of the issue of the Buenos Ayres Drainage and Waterworks Company in 1888 burdened the underwriters of the stock with unsaleable goods. The other issues of Argentine securities were also not off their hands. The discredit of Argentina resulting in a financial crisis and political unsettlement there, involved the houses doing large business with that country in a considerable strain to their resources. The enormous acceptance business of the Barings had, as it seems, been conducted with a lack of the necessary caution. "The chief of the firm appears to have "thought that their command of money was so great that there "was no need for the ordinary calculations and precautions "which sound men of business adhere to by a kind of second "nature." (Cf. *Econ. Jour.* No. 1, p. 192.)

The Bank of England was appealed to for help and, of course, caused an investigation of the affairs of the firm to be first made. On Friday, November 7th, the discount rate was advanced to 6 per cent., and the next Tuesday, quite contrary to all precedent, the bank endeavoured to allay alarm by an announcement on the Stock Exchange by its broker that arrangements had been made for an increase of its stock of gold, then standing at over 11 millions, by some 3½ millions. Of this 1½ millions was realized by a sale of Treasury Bonds to the Imperial Treasury of Russia, and £2,000,000, afterwards increased to £3,000,000, by a loan from the Bank of France on the security of Treasury Bills. Very few had any idea of what was really behind this action and various causes contributed to a deep sense of uneasiness as the week advanced. On Friday the 14th it became known that the bank directors were occupied, with other bankers, in consultation late in the afternoon. Next day the name which had been rumoured on the Friday as the cause of difficulty was openly announced. It was known that Barings were unable to meet their acceptances, but it was also known that the Bank of England, having assured itself that the firm held a sufficiency of good assets, a guarantee fund was to be undertaken. The Bank of England was to undertake the liquidation of the firm, if other firms would guarantee not less than £4,000,000 to help it. The meeting on Friday had assured some 5 or 6 millions for the fund, and on the Saturday it rose to 10 millions, while the announcement allayed the panic feeling. The guarantee fund ultimately rose to 18 millions, but the later additions mattered little, and those who then added their names may be taken to have done so very largely to be in the fashion, or for advertising purposes. The guarantee was to run for three years, during which the liquidation of the firm's affairs was to be effected. It actually occupied a much longer period, as will be remembered.

The United States, having escaped the crisis of 1866 by the forced liquidation of 1860 and 1861, was ripe for an explosion in 1873. France, as noted, passed through its liquidation in 1864, and was again forced to liquidation in 1870, and thus the effects of the disturbances of 1873 on its general business conditions were but slight.

Two great wars had destroyed enormous masses of capital (three wars, if we add the Austro-Italian wars of 1866), especially in the United States. Railway building further absorbed great quantities of floating capital. The annual average of 1860-67 was 1,311 miles. Then, in a series of years, beginning with 1869, 4,953, 5,690, 7,670, 6,167, and, in 1873, after the panic, 3,948 miles. Russia, Austria and South America had also been busy with railway construction. Enormous producing areas were thus enabled to lay down their crops in European ports at prices ruinous to the home producer. The construction of the Suez Canal, completed in 1869, destroyed much of the value of existing shipping and led to a need for new. The price of iron soared heavenward and that of coal kept it company.

Mr. Conant's remark, that " Periods which witness the turning of business from the ordinary courses into new channels are always periods of uneasiness, of unusual risks and speculative tendencies," made of 1861-6, applies here and later. Great Britain was lending freely to foreign countries, heedless of experience of loss, and her exports went up by leaps and bounds as a result, touching figures not matched for a generation, increasing in three years by 275 million dollars or over 25 per cent. The inflation extended to every European house, and, when the reckoning came, in 1873, out of loans taken in London totalling 3,000 million dollars, default, total or partial, was found to the amount of 1,600 millions of the principal involved.

In the United States the final crash came with the failure of trust companies in New York and Brooklyn early in September, 1873, followed on the 18th by the failure of Jay Cooke & Co., agents of the Government, who had been leaders of the syndicate which had handled the refunding of the public debt. Already credit was greatly overstrained, and runs on banks occurred in Washington, Philadelphia and New York. On the 19th September, nineteen banks and trust companies closed, and the Stock Exchange closed for ten days. Failures followed thick and fast, mills and foundries stopped and production ceased, and for six years depression hung over United States industry. Deposits in the National Banks fell from $641,000,000 on June 13th to $540,500,000 on December 26th. In four years failures showed aggregate liabilities of $776,000,000, and on January 1st, 1876, railway bonds totalling $789,000,000 were in default.

The Secretary of the Treasury endeavoured to relieve the money market by paying out $24,000,000 in buying bonds. The New York banks resorted to the use of clearing-house certificates on September 22nd. These are certificates issued by the clearing-house to members applying and depositing acceptable collateral. They serve instead of legal tenders for the payment of balances due on the clearing, and thus set free the cash for loans and discounts. They are, effectively, an emergency addition to the currency such as was the extension of the fiduciary issues beyond the legal limit in England in 1857. Special committees are appointed to deal with these certificates, and the holders are charged interest, at from 6 to 9 per cent., which serves to bring them back when they are no longer needed. The first issue of loan certificates by the clearing-house was in 1860, and in 1861, 1863 and 1864 they were also resorted to. In these years New York alone had issued them. In 1873, Boston, Philadelphia, Baltimore, Cincinnati, St. Louis and New Orleans also adopted the device, so great and general was the strain. These issues took place on dates between the 24th and 27th of September.

For more than two months, covering the worst part of the panic, no weekly statement of their condition was made to the clearing-house by the banks, so that the disclosure of the weak condition of some among them might be kept from the public.

Turning to Europe, we note that the German Government was disquieted by the fever of speculation in Prussia, and the Bank of Prussia refused the paper of many of the new joint stock companies that were floated. The speculators transferred their activities to Vienna, and issued $140,000,000 nominal of "securities," so-called, during the first three months of 1873. The Bank of Austria lent largely on this paper, to keep the speculators from failure; but, on the day following the opening of the International Exposition, May 27th, 70 failures occurred, and 110 next day, involving establishments of the first importance. The Bourse was closed, the limit on the bank's note-issuing privileges was suspended by the executive government, the Treasury made loans and a syndicate of bankers was arranged to make advances on sound securities. Thus, a general panic was avoided, but credit was impaired so much that business did not begin to run on its usual lines till 1875.

It will be thus seen that the outbreak of the crisis in Europe antedated by a month, nearly, the outbreak in the United States. In England, the collapse of credit was deferred, though a bank-rate of 9 per cent. was necessary to protect the reserve. In 1875, and again in 1878, came violent spasms of liquidation. The crest of the wave of inflation did not coincide with the date of these spasms, as the crest was passed in 1873.

The United States had its full share of the effects of the tide of prosperity in 1882-4. The Marine Bank of New York suspended on May 5th, 1884, closely followed by the failure of the Metropolitan Bank and the exposure of several prominent financiers and the collapse of smaller houses connected with them. Money went to 1 per cent. per day, the interior banks drew heavily on New York reserves, and it was hardly possible to obtain cash or credit even on the best securities. Deposits in the National Banks fell from $1,061,000,000 on April 24th to $979,000,000 on June 20th. The 25 per cent. legal reserve blocked the free use of the funds with which panic might readily have been stayed, and clearing-house certificates were once more resorted to.

In 1890 a financial stringency occurred in the United States as a result of the locking up of surplus revenues in the treasury, and even though, within seventy-five days, up to September 6th, nearly $76,660,000 of public money was set free in purchase of bonds before maturity, and over 98 millions were so used in the third quarter of the year (the first of the fiscal year), the stringency was not relieved. The interior banks had drawn largely on their reserves in New York in the early part of the year in connection with railroad extension. When the London crisis arrived the power of the treasury to render aid was exhausted, and on November 11th the New York clearing-house association resolved to issue loan certificates. The certificates were only issued from November 12th to December 22nd, and the last was retired on February 7th. In Boston, five days after New York had acted, a similar course was decided on, and from November 19th till December 6th certificates were issued, the last being retired on January 6th. The day after Boston's action Philadelphia joined in, and its issues began on November 19th, 1889, and ceased May 22nd, 1891. Two national banks were carried down in the panic, the Keystone and the Spring Garden, and they held some $170,000 at the time of failure.

The disastrous collapse of credit was reserved for 1893, and was doubtless due in part to the withdrawals of capital by European investors to make good the losses experienced in 1890, which withdrawal touched especially South America, Australia and the United States. Though the extraordinary rottenness of South American finance was not shared either by Australia or the United States, in both a great sinking of capital in unproductive enterprises had occurred. The general distrust aroused by the Baring failure helped to test what could not stand the test, and first in Australia, then in the United States, a shock to credit was experienced, which produced serious effects on European bourses, and in Italy especially led to business disaster. The United States attracted most attention, because of the magnitude of her commercial interests and the great investments of foreign capital in railways, breweries, cattle ranges and public securities. For years, the income derived from these investments had been again re-invested in American enterprises, and a cessation of such re-investments was enough to produce a shock, even without any positive withdrawal of capital. The political manœuvres of the party which judged it wise to ally itself with the silver interests aroused a fear that the gold standard might be abandoned, and the result was a desire to get out of American investments. After the passing of the Sherman Silver Purchase Act of 1890, there was an almost continuous withdrawal of gold from the United States treasury till the outbreak of the panic. Treasury notes were pumped into the circulation at the rate of $4,500,000 per month and, to June

30th, 1893, $147,190,227 were issued. The net exports of gold for three years, to June 30th, 1893, were $156,132,423, and the reduction of the aggregate gold in the treasury in that time was $133,156,991.

A period of speculation set in meanwhile. Funds were raised for working alleged tin mines in South Dakota; vast tracts of land were purchased in Florida to be worked off on foreign investors as sugar estates under the guarantee of the bounty on sugar. As Mr. Conant records, "New towns sprang up all over the South, dowered in the imagination of their prospectors with infinite possibilities of mineral wealth and manufacturing development, but which proved, in fact, little more than bottomless pits for the millions of northern capital spent in laying them out." In the suburbs of the great cities, improvements were laid out on a great scale, in advance of actual demand, on property for which no purchasers could be found, when people began to ask themselves what was the basis of reality beneath inflated and fictitious values. New equipment for street railways was also a feature of the developments.

A partial failure of European (Russian) crops in 1891 caused a great spurt of exports in 1892, offsetting the drain which the increased imports, made to meet the extravagant expenditure in living and in industrial development, would have otherwise caused. Thus the crisis which might have followed, else, closer on the heels of the Sherman law, was delayed till 1893.

As 1893 advanced, the near approach of the crisis became evident. In April, Bradstreet's reported 905 failures against 703 a year before; in May, 969 against 680. On May 9th the Chemical National Bank of Chicago closed its doors (capital, $6,000,000), and two days later was followed by the Columbia National Bank of Chicago (capital, $1,000,000). These suspensions were accompanied by the collapse of private and State banks and business firms and corporations, and credit was paralyzed. The decision of the Indian Government to close the Indian mints to silver, announced June 26th, 1893, caused a profound sensation in the United States, and increased the tendency to unreasoning panic.

Already the Secretary of the Treasury had ordered the anticipated payment of sums of bond interest due in July, so as to lend what little help was able to be given by the treasury to the money market. In four days silver tumbled from 36d. to 30½d. in London, and from 78 to 65-67 cents in New York. This fall meant a depreciation of the silver bullion held by the government to the extent of $37,000,000. Banks all over the country were being forced to the wall. At the end of June a special session of Congress was called for August 7th. No entire year had previously seen over twenty-five failures of National Banks, but in the one month of June twenty-five National Banks suspended, in July seventy-eight, in August thirty-eight. State and private banking houses were not more stable. By August 1st a first-class panic was raging throughout the country, particularly in the great business centres. Banks began to refuse to pay checks, except in certified or clearing-house checks, currency went to a premium, and factories had to shut down for lack of the cash to pay wages. The premium on currency brought out hoards, but it checked deposits in banks. Strange to say, but little complaint was made of the illegal stoppage of cash payments.

Railway earnings fell and owners of revenue-yielding securities found that the revenues dried up and their wealth vanished. The Erie, Philadelphia & Reading, Atchison, Topeka and Sante Fe, and the Union Pacific railroads passed into the hands of receivers.

On the stock exchanges a crash in industrials occurred on May 5th, but July 26th was one of the worst panic days. Rates for money in New York rose from an ordinary level in the morning to 75 per cent. before the close of business. Scarcity of money forced unloading of securities. Stocks fell rapidly. The excitement in New York was so great that a proposal to close the Stock Exchange was made, but rejected at the meeting of governors next day. Foreign exchange houses were appealed to for help, and $10,000,000 in gold was engaged in London while exchange stood about the exporting point.

By August 5th the New York banks had fallen below the 25 per cent. of legal reserve, and this is an indication of a narrow margin reached for a considerable time. In some cases demands by interior banks for reserves were not responded to, unless an assurance of urgency accompanied them.

The issue of clearing-house certificates was begun in Philadelphia on June 16th, in New York on June 21st, in Boston and Philadelphia on June 27th. Though these, with the Pittsburg issues, were the only ones reported to the Comptroller of the Currency, Baltimore, New Orleans, Cincinnati, Buffalo, Detroit, Atlanta, Birmingham (Ala.), Richmond (Va.), Chattanooga (Tenn.), in fact, nearly every considerable city issued some form of certificate, some of them being for general circulation. The law was simply ignored, for the need of a circulating medium forced itself on the country. Certificates and certified checks, guaranteed by associations of banks where such existed, were issued to replace currency, which could not be procured. Sometimes single banks issued them in even amounts. When arrangements could not be made with banks, railway companies and manufacturers took on themselves the function of issue. In a few cases they had the guarantee of the local authorities, and were drawn on some public fund. These emergency forms of currency were found very useful, were treated as cash by merchants and banks, and were promptly redeemed when the panic was over.

The ten per cent. tax on bank circulation other than National Bank notes, it may be remarked, brought in the sum of $2.26 for the fiscal year 1893-94. Thus were the illegal issues disregarded by the authorities.

Congress met on August 7th. When a vote was taken in the House three weeks later, every member but two recorded his vote on the proposition for free coinage of silver at 16 to 1, which was defeated by 226 to 125. The absentees were a sick member from New York, paired with a South Carolina supporter of silver.

After much debate in the Senate, a bill repealing the Sherman Act at last passed on October 20th, was accepted by the House and received the President's signature on November 1st. By this time the acute stage of the crisis was over. Deposits returned to the banks, but loans and discounts grew but slowly, and unemployed funds lay idle. From May 4th to October 3rd, loans and discounts had fallen by 15 per cent., from $2,151,000 to $1,843,000, or $318,000,000; deposits by $299,000,000, from $1,750,000,000 to $1,451,000,000, or 18 per cent., taking all the National Banks of the country. The figures of May were not reached again till February, 1898, for loans and discounts, though deposits were nearly at their old figures before 1894 was out. For the New York banks, the fall of loans and discounts from February to September was from \$465,000,000 to \$390,000,000. Deposits fell from \$490,000,000 to \$370,000,000 in August, and were back again at \$490,000,000 by November. Loans and discounts did not get back to the level of February, 1893, till May, 1894. Deposits nearly reached \$600,000,000 by November, 1894. Less capital had been destroyed in the East by bad investments, so that accumulations of idle capital were greatest there. Confidence in the banks was restored, but general confidence was not restored till after, in 1896, the fears of inability to maintain the gold standard had been dispersed. Plethora of currency took the place of scarcity, and gold exports replaced gold imports. Into the bond-issues made to maintain the treasury reserve I do not propose to go, neither shall I devote space to discussing the Australian crisis.

Our survey of some prominent features of past crises in England and in the United States has shown that the general description of the series of changes involved in a credit cycle, in the April number of the JOURNAL, corresponds with the actual experience of two great Anglo-Saxon commercial communities, and it would be tedious to extend the demonstration to other countries. The development of enterprises whose returns can only be realized in the distant future tends, in periods of over-confidence, to outrun the accumulation of capital, so that capital resources assume, in too large a degree, an unavailable form. This fact, with its connected financial relations, is involved in each crisis, and the correction of the maladjustment is the end reached through the agency of a more or less violent reaction.

The view has already been suggested that the evil can be cured by less violent means than panic and commercial collapse. But it is not clear that the intelligence needed to make a mild cure effective is, as yet, sufficiently widespread to render panics improbable in the future; or that the power of control, possessed by those whose foresight and prudence would suffice to guide commercial affairs smoothly back to normal conditions, is adequate to secure the financial community against the natural consequences of rashness and foolhardiness. In so far as the concentration of control in important lines of industry and commerce has increased the influence of those who are wise enough to weigh well the chances of the future, and to apply the brake before the rush has passed beyond their power to restrain it, the consolidation of the control of manufacturing and of finance does hold out the hope of modifying the violence of panic in future readjustments. But the attainment of this result is dependent on the degree of intelligence and foresight and self-restraint possessed by those in whose hands the fortunes of these vast concerns rest. It is not because we have vast consolidations that we may look for improvement, but because there seems some reason to hope that the powers of control conferred by the vastness of the consolidations will be exercised by persons wiser than the average of those who have been displaced in the formation of the consolidations. If this be not the case, the increased concentration of power in single hands may make matters worse instead of better.

It is hardly to be expected that the more effective control by a few wise heads of certain departments of industry and finance will effectively insure us against the effects of periodic epidemics of over-confidence. We are, as yet, far from the condition in which the rashness of the multitude of lesser men can be rendered wholly innocuous by the coolness and insight of a few. The recent past has provided ample demonstration that the affairs of the commercial world are not yet beyond the influence of those spasms of wild speculation or unreasoning fright which sometimes seize crowds of men.

No one can have followed the discussions of business affairs by public men and in responsible journals for some months past without having his attention called to sign after sign that the conditions for an unchecked continuance of business expansion at such a rate as has held for the last few years are suspected not to exist. There is some shouting to keep up our courage. But the scarcity of available capital to carry out many schemes of development of even modest extent cannot be gainsaid. We note that anxious attention is given to the adequacy of banking reserves, that high rates are maintained for advances even where the security for ultimate repayment is unquestioned; and that in other ways warnings of the necessity for discretion in the disposal of funds in hand are conveyed. The strain upon credit extends to all the leading financial centres of the world. This is attributed by a well-known writer in a recent article in a London weekly paper to the way in which help has been given by markets to one another in a series of strained situations. Gradually, all alike have become crippled. But, seeking the deeper causes of financial distress, combined with commercial prosperity, he finds them in increase of the world's gold supply, and in extravagance, both public and private. The increase in gold supply leads to rising prices and a stimulation of trade. " The world, as it were, wakes up and rushes forward under the lead of finance, eagerly determined to conquer new regions whence wealth can be drawn, to people waste places, to build railways, dig canals and docks, expand shipping facilities, and generally to lock up with furious speed the realized wealth of civilized nations in all directions. . . . . Credit is utilized to an extent that not only exhausts it, but tends to paralyze enterprise, to overburden it with charges there is no revenue to meet." As for the fact of extravagance by public authorities, the writer cited declares that, "All great Powers, as they are called, are to-day spending far more than the nations they govern can year in and out afford"; and points out that, " if an undue portion of the earnings of a nation are swept into the public treasury, that nation will by and by find itself crippled." We do not need, in fact, to spend long in searching for adequate causes for present embarrassments. It would be rash to assert that the flowing tide of business expansion has about reached its culmination, still more to prophecy an important and long-continued set-back, where so many unknown factors are involved in the sequence of events. Nevertheless, it is, perhaps, not going too far to say that this is a time when any advice which experienced leaders in finance may give to proceed with caution cannot be ignored without grave danger. There is a good deal that is critical in the situation. Let us hope that the wisdom of our leaders may save us from the excesses which lead to panic, or even from a premature set-back brought about by too great haste to achieve results which overtax the resources at present available.

September, 1907.

BANKS AND FOREIGN LOANS.

A PROMINENT English financial writer, Mr. W. R. Lawson, has an interesting article in the *London Bankers' Magazine* for June, 1907, on "How Prosperous Trade Affects the Money Market." He describes how, when trade is prospering and expanding greatly, the increasing demands on capital resemble the succession of widening circles that follows the throwing of a pebble into a lake. As each large user of capital enlarges his capacity for production, not only does he himself require to borrow more, but a number of other persons who are in some manner affected by his expansion, also find a use for more credit facilities.

As the process goes on, the strain on the banking resources becomes greater and greater—the situation becoming, in the end, almost intolerable for many business men. To quote Mr. Lawson, "Then the banker will become the best abused man in his neighbourhood. Manufacturers, merchants, capitalists, company promoters, inventors, speculators and trade unionists, all forgetting their own share in the boom, will combine against the unfortunate banker. First, they will blame him for letting out money too freely, and then for pulling it in too sharply. Few, if any, of them will stop to think what a difficult and thankless task it is to control a crowd of people who have all got money-making on the brain. In the first stages of a trade boom superhuman caution is expected of bankers, and in its last stages superhuman generosity. In both cases a great many unreasonable people are liable to be disappointed."

Though this was written of the commercial world in general and of the British Isles in particular, it is nevertheless a peculiarly accurate description of Canadian conditions at the present time. The Dominion has been having a tremendous boom. The trade and industrial expansion has been enormous. The strain on the banking resources increased cumulatively till the banks could go no further. Then arose the storm of criticism and abuse which has not yet subsided. Theories and explanations as to how the bankers were at fault are enunciated by the dozen. Most of them are too ridiculous to get much attention. But there are a number sufficiently plausible to carry weight with the multitude and some few that impress all but the experts. Perhaps the one thing for which the banks have been criticised the most is the action in maintaining all the time large amounts of loans and discounts in outside countries. It seems such an irresistible argument to point out that the Canadian banks have out in call and current loans in foreign countries $84,000,000, and to declare that the stringency in the Dominion is chiefly due to that circumstance. Leading newspapers have declared, in large type, that if the banks would but bring home five or ten millions of this money it would help relieve the stringency, showing that the editors thought that even if the stringency was not directly caused by the foreign loans, it would yet be proper to use them freely for remedying the home shortage.

And a great many people think on general principles that the banks are wrong in making these loans, stringency or no stringency, because Canadian money should be used exclusively for the development of Canada.

In some newspaper articles defending the policy of the banks in this matter, it has already been pointed out that when all the items of the banks' foreign business are taken into account—balances due to and from foreign bankers, foreign deposits, call and current loans abroad—there is shown a heavy reduction in the net foreign investment in the last year. The figures are as follows:—

Canadian Banks.

Foreign Assets.	31 July, '06.	31 July, '07.
Due by banks in United Kingdom......	$ 9,976,621	$ 5,729,317
Due by banks in foreign countries......	17,626,673	17,821,099
Call loans elsewhere	54,261,216	60,609,114
Current loans elsewhere	34,379,778	23,723,397
	$116,244,288	$107,882,927

Less Foreign Liabilities.

Due to banks in foreign countries......	2,591,347	5,410,337
Due to banks in United Kingdom......	$ 6,631,552	$11,951,322
Deposits elsewhere	50,826,446	58,421,023
*Net foreign investment	$56,194,943	$32,100,245

Thus, in the year, the reduction in the net foreign investment is seen to be $24,094,698, or about 43 per cent. If the period, 30th September, 1906, to 31st May, 1907, be taken, a very much larger reduction is shown.

Though this point has been brought out before, it is important enough to deserve reiteration and emphasizing. It is obviously wrong to take one or two items of the banks' foreign business—such as call and current loans abroad—and to consider them by themselves without taking account of other items that have a relation to them. If it is sought to establish any point worth while about the business the Canadian banks are doing in foreign countries the whole thing should be presented and not just the one or two parts that seem to forward or strengthen the argument. As a matter of fact it only needs a glance at the monthly statements to see that the banks are continually shifting their funds which they have abroad from one to another of the headings. An institution might show one month a heavy net balance due to it from London bankers. Shortly after it might sell in the New York market so many drafts or bills on London as to turn its credit balance there into a heavy overdraft. The funds representing the change in position might show first as balances due by bankers elsewhere, and later as call loans elsewhere. Finally, if the bankers got the idea that there would shortly be a considerable fall in call loan rates, they might, while the opportunity remained to them, transfer considerable amounts from call loans to time loans, thus ensuring their receiving a satisfactory rate for at least the term of the time loans. These are just mentioned to show the absurdity of looking only at a part of the foreign business. No proper understanding can be arrived at unless the whole matter is studied.

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*There are also foreign investments in the bonds and securities held by the banks, but the statements to Government do not divide the securities into home and foreign, so they cannot be taken into the calculation. However, there has been scarcely any change in the totals of the two classes of securities which might contain foreign bonds and stocks. The figures are: 31st July, 1906, $62,043,173; 31st July, 1907, $62,529,229.

But it will be well to treat the question from a fresh aspect. It is pretty well recognized that the foreign loans, especially the call loans, represent a valuable safety fund which can be drawn upon at will to meet any emergency that may turn up in the Dominion. From this fund the banks can, when the occasion demands it, draw home millions of dollars in gold and so strengthen themselves and the general situation without forcing Canadian borrowers to pay up. That is what they did when the Ontario Bank failed; that is what they would do if some other financial catastrophe happened to shock and frighten the people. This theory being accepted as right and proper, the only question that can arise is that concerning the size of the safety fund. Is it larger than there is need for?

In settling the answer to this, it must be remembered that the foreign call loans constitute one of the most vitally important items of the Canadian bank cash reserves. In hard cash itself—specie and Dominion notes—the banks held on 31st July last, $70,932,512. So far as each individual bank is concerned it can quite properly rank its holdings of notes of and cheques on other banks as part of its cash reserves. Probably the greater part of the item will be collected next day, and will go to redeem the bank's liabilities or to increase its stock of Dominion notes. But the item really represents obligations of the banks held by themselves. When they are collected the resources of the banks as a whole will not be increased thereby. Collection merely means the shifting of legals from one bank to another. To discover their actual position, taking all the banks as a unit, as regards outside creditors, the item, notes and cheques on other banks should be deducted from their liabilities, since that much of them, being held by themselves, they had already redeemed from the hands of the public. The total liabilities on 31st July, 1907, were $780,030,584. Notes of and cheques on other banks were $28,432,037. Therefore, the liabilities of the combined banks to outside parties were $751,598,547. The $70,932,512 specie and legals represents 9.44 per cent. of the net liabilities. Some part of these legals would be scattered round among the branches as small change, and would not therefore be readily available for meeting emergencies. Taking all the circumstances into consideration the practice of the banks seems to be to regard their holdings of specie and legals as being sufficient only to give them a little leeway in the matter of making exceptionally large loans, or of meeting specially large withdrawals of deposits in the ordinary course of business. One reason why a bank cannot consider its notes of and cheques on other banks, held ready for the next day's clearings, as available for this purpose is that part and perhaps all of them will be required to offset its own obligations that will be sent in the next day by other banks.

The legals and specie reported by the banks each month appear to be sufficient only for the work just mentioned. The Bank of Montreal or the Commerce must always have before their eyes the possibility that some mercantile or other customer or customers may unexpectedly call on them for advances of several millions for some special deal or deals, or the possibility that they may lose several millions of special deposits—this during a normal period when no excitement or crisis is agitating the people. The specie and legals they hold would enable them to meet those occasions quite handily. But the real safety fund of these banks and of the other important banks lies beyond the specie and legals. In a real critical time when there is danger of a bad break in confidence they would turn at once to their foreign balances and call loans. On the 31st July the net foreign balances of all the banks amounted to $6,188,757; the foreign call loans to $60,609,114; the two together $66,797,871, or another 8.8 per cent. of their liabilities.

So, summarizing the position it appears, according to this method of reasoning, that the banks hold, in hard cash to meet the daily balances of the clearing house, to keep themselves in change, and to give themselves a certain amount of leeway in taking up new business or meeting losses of deposits, 9.44 per cent. of their liabilities. Further, they have as a safety fund against crises another 8.88 per cent. in foreign balances and call loans. It is extremely doubtful if this percentage of safety fund will strike any fair-minded critic as being too large.

A safety fund of this kind, to fulfil its proper function, must be so placed that the banks can, without any uncertainty and without losing any time, lay their hands on the actual cash no matter what the times are. And if 'tis actually true, as it appears to be, that the bankers consider that they must maintain a safety fund of that percentage or that amount, and if we imagine, for the sake of argument, that the Canadian Government were to forbid the banks keeping balances or investments outside Canada, it is difficult to see how the Canadian borrower would benefit from the bringing home of the fund.

For to be a real safety fund, certainly and immediately available under all circumstances, the fund would have to be brought home in cash, probably in gold, and kept in that shape. It could not obviously be loaned out. It is to be expected, therefore, that the net result of the change would be to deprive the banks of the profit they now get through the employment of the fund in the New York market. And there is every probability that if that happened it would have the effect of forcing up discount rates in Canada. In other words, it is tolerably certain that the banks are able to lend cheaper in Canada because they are allowed, under the present system, to get a revenue return out of their safety fund.

The case has still another aspect. When a bank branch is opened in any locality it draws funds away from that locality or brings them in, according, roughly, to whether it has an excess of deposits or of discounts. For example, if the branch has $100,000 in deposits and only $40,000 in discounts and other local investments, it draws away $60,000 of the locality's funds.

Obversely, if it has $50,000 in deposits and $130,000 in discounts and other local investments, it brings in $80,000 from outside. Every bank has a number of both kinds of branches; some debtor branches and some creditor. When they are run, as most of them are, so that all the proper and legitimate demands for loans are cared for, it is no actual hardship for one of these localities to have a part of its deposit fund drained away for use in a neighbouring locality where there is a more active industrial life. Now, let us consider the foreign branches of the Canadian banks in this respect. They are located, as most readers know, in New York, Boston, Chicago, the Pacific States, Newfoundland, Bermuda, Cuba, Jamaica, Mexico, and London, England. In all of these places, presumably, the Canadian branch banks are taking in deposits and granting discounts. In Newfoundland they are issuing notes for currency as well. Leaving out of account the call loans and net foreign balances, which serve the special purpose of safety fund for Canadian liabilities, which way is the balance? Are these branches, on the whole, draining money out of Canada or are they bringing it in?

The items are:

Deposits elsewhere than in Canada............	$58,421,023
Current loans elsewhere than in Canada........	23,723,397
	$34,697,626

To this should be added the note circulations, in Newfoundland, of the Canadian banks established there, whatever that amounts to.

Considered in this way—with the foreign balances and call loans regarded as a necessary reserve against the whole business of the banks, the great bulk being Canadian—the operations of the outside branches have had the result of bringing something over $34,697,626 into the Dominion. It is quite conceivable that the residents of the places where these branches are established, except New York city, and perhaps London, might have a substantial grievance against the Canadian banks. They might say, "Here are those foreign banks establishing their branches in our locality, collecting deposits and sending our money away on balance to the Dominion of Canada, to be used to develop that country."

H. M. P. Eckardt.

THE ORGANIZATION OF LABOUR.

THE organizing power of man—what may be called constructive statesmanship, does not seem to grow and keep pace with the march of invention and discovery, and the great increase of the world's productive power. On the contrary, no fact of modern life seems to be plainer to the thoughtful observer than that we are making no progress in improving our institutions or our government. Endless laws are being inscribed on every Statute Book by legislators who have no insight into what they are doing or trying to do,—everlasting action but no progress.

The world's productive power, per man, is now far greater than in any previous age, but the distribution of the aggregate product is still so imperfect that it may well be questioned whether the mass of the manual workers, relatively to the upper class, is any better off than it was 150 years ago; while the residuum of poverty and beggary seems to become more and more of a problem. The consequence is a continually growing spirit of protest by the masses against what they consider robbery by the capitalist and landlord. There is almost a constant fight going on between capital and labour in all civilized countries; and the spread of socialistic ideas is one of the most conspicuous features of our time. There seems to be no possible let up to this incessant conflict, which has its basis on the side of labour in a deep feeling of injustice and wrong. But the difficulty of dealing with it effectually would appear to be almost beyond human faculty. Who shall undertake to show what each man's work is worth, and to see that he gets payment for neither more nor less than that? While this might appear to be ideal justice, it is clearly not attainable; and even if it were attainable, it would not provide for the incompetent, the weak, and the vicious, who are as important a part of the human problem as any other. The workers and the employers confront each other almost like hostile armies, and as yet there has been no appeal to any higher principle for the establishment of harmony between them than the so-called law of supply and demand As if human beings could be treated like commodities, and civilization still be maintained.

The capitalist seems to regard the whole labour world as simply a natural reservoir, from which he can draw, as he requires it, one of the necessary factors in his wealth-creating schemes—the other necessary factors being raw materials and a market. He is interested in getting both labour and raw materials as cheap as possible, and in restricting his market to as few competitors as possible. And, to gain the latter, he is quite ready to bring the combined political influence of his class to bear, to exclude from the country the better and cheaper products of other countries. With free trade in labour and raw materials, and foreign products kept out of his market, what an ideal condition for him! But as for the poor labourer, who is also chief consumer, he is left to be ground between the upper and nether millstones.

On this basis, and with monopolies generally in the hands of Capital, it is easily explained why there should be almost constant friction between Capital and Labour—the undue gain of the one being the undue loss of the other. And that there are undue gains being reaped is only too evident from the rapidly increasing number of millionaires, who are a constant reminder to the labouring classes that they are being robbed.

The wealth of the millionaires, however, is not all stolen *directly* from the labouring classes. A very large proportion of it is extracted from the community as a whole by obtaining possession or control of something in the nature of a monopoly—something which is necessary to the community, but limited in supply. The greatest of these monopolies—practically including them all—is land. With land is included mines and minerals, water powers, and special charters for supplying the community with power, light, water, street railways, etc. Whatever value there is in these monopolies, and in the aggregate it is immense, it should undoubtedly be secured for the whole community, who have an inalienable right to it; and that practically no systematic effort has been made in that direction, is sufficient proof of the extraordinary lack of statesmanship in our time.

Instead of securing for the general benefit of the community the enormous wealth involved in the unearned increment of value in these natural monopolies, we have of late years allowed the scheming capitalist and promoter to devise a new and ingenious method of still further taxing industry—the system of watering the stock of joint stock companies, an abuse which is growing to phenomenal dimensions; while our law-givers and rulers seem to be absolutely unconscious of what it means, or that there is anything wrong about it. The direct effect of course is that, in order to be able to pay dividends on the watered stock, the community is put under a potential mortgage for all time.

Our civilization, in fact, is of the "go as you please" kind—every man struggling with the fiercest energy of which he is capable to grab what he can lay hold of, pretty much like the old border reivers, who, as Wordsworth described, followed

"The good old rule, the simple plan,
"That he should take who had the power,
"And he should keep who can."

While our statesmen and law-givers seem to be bankrupt of resources, or adrift on a sea of democracy, without a compass, the disaffected masses keep demanding more and more of them; but it is like calling spirits from the vasty deep. Those on the top simply lie back and wait developments. If the world is not the best possible for them it is at any rate fairly comfortable, and they do not lose much sleep over the woes of the toiling multitude. They do pretty much only what they are driven into doing, and, should the pressure from below cease, further activity on their part would also stop immediately. The pressure from below, however, is not likely to cease, and the surprising thing is that, considering the magnitude of the issues at stake, and the immense forces at work, so little real progress of any kind should be accomplished, and that the masses should remain as patient as they are. One cannot but think that it is largely owing to the inability of the "havenots," the great working classes, to so formulate their ideas and demands, as to command their acceptance and adoption by the ruling powers, on grounds of the barest justice alone. In other words, they have not yet been able to make out a clear case from their point of view; and they are getting precious little assistance from the ruling class to enable them to do so. We are, in fact, cursed with so-called leaders, who do not lead—blind leaders of the blind. In the meantime socialism grows stronger every day; capitalism is denounced—more particularly as organized in the modern business Company or Corporation, and what are called Trusts. Millionaires are regarded as enemies of the people, and dangerous to their liberties. To such an extent has this grown that even in the United States, where the masses are probably better off than in any other country except our own, the great elections are being fought over the question of the curbing by the government of the predominating power of Corporations and Trusts: and the President is advising the limitation of private fortunes by means of a progressive income tax, and a heavy progressive inheritance tax. To my mind this is all futile. Wealth is good in any body's possession, if honestly obtained and prudently used, although it would be greatly to the benefit of mankind if it could be more evenly distributed without transgressing any natural law.

Neither an income tax nor an inheritance tax is justifiable on economic grounds, or by any law known to economics. They are simply easy methods of raising money in large amounts for public purposes, and are only justifiable on socialistic or communistic principles, which most of us profess to repudiate. One inevitable result of the income tax is to make the large majority of the community liars, while the inheritance tax can be, and frequently is, defeated by the testator disposing of his property during his lifetime. An inheritance tax is advocated on the ground that the rich man largely owes his wealth to the advantages he derived from the protection of the state, and the general co-operation of the community; and that after his death his heirs have no indefeasible right to it, or at any rate to the whole of it. But it can hardly be shown that the successful man has had more done for him by the state or the community than the unsuccessful one; and if the former cannot will his estate to whom he likes, it will then be but a short step to the claim that property in individual hands can properly be taken by the state before as well as after death. That would mean that the desire to acquire wealth, perhaps the strongest motive known to human nature, which calls forth more energy than all other motives combined, would be practically destroyed, and we should then have a race of loafers and paupers—universal laziness and an end of all progress. No possible permanent advantage can accrue to the community by measures which, even if temporarily successful from a material point of view, are objectionable on moral grounds, and so directly tend to degrade character. This is eminently the case with the income tax. What a man earns honestly, or without robbing his fellows, can be no measure of what he owes to the community; and nothing that the community can do will ever convince men to the contrary. To try to force this principle on them, as the income tax endeavours to do, can only have the baleful moral effect which experience shows that it has.

But why should such extraordinary measures, which are not justified by common honesty, be adopted as a means of partially mitigating the inequalities of fortune, and lightening the burdens of the poorer classes, when the great glaring monopolies, which nature so obviously intended for the benefit of all, are quietly allowed by so-called law to become the absolute property of individuals, to the lasting detriment and distress of the great majority?

I am firmly convinced that, great as our social difficulties may be — and some of them apparently insurmountable — they are all due to our own lack of management, lack of insight, and the unrestrained greed of what may be called the predatory element among us—who are usually the most competent and the most energetic, if not the most considerate of others' rights.

I am also convinced that we have within our own reach the means of remedying most of the great evils which afflict society, and which call so loudly, not for pity or even sympathy, but for bare even-handed justice. To believe otherwise would almost involve our belief that the Almighty has so destined things for us that we are caught like rats in a trap and doomed to a miserable end. The theory of Malthus practically amounts to this, and it had much acceptance in its day from orthodox economists; but instead of modern developments lending any weight to his doctrine, they rather show that as wealth and comfort increase the birthrate diminishes; and that one of the problems of the future will not be overcrowding, but the difficulty of maintaining a strong, healthy and increasing population without the necessity of importing pauper foreigners: when every child born into the world will be welcomed as a divine gift from the great Creator, to be loved and cherished, trained and made the most of, both for its own sake and for its value to mankind.

One has only to look around him to see that there is a vast amount of human energy wasted in every community in unproductive labour, misapplied labour or idleness, which if saved and productively employed would go far towards removing many of our troubles: while the stopping of the robbery of land and other monopolies would be an incalculable gain to the world, both materially and morally.

While the socialism so rife among the working classes seems to be greatly concerned with what they conceive to be the oppression of corporations controlled by buccaneering capitalists, and to be convinced that the only cure is to nationalize or municipalize not only all monopolies and public utilities, but also the great industries—all the means of production,—it is certainly of the utmost importance to consider whether there is anything to be hoped for from systematic action in that direction. It seems hard to understand why so much confidence should apparently be felt by the masses in the powers of government to remedy the evils they complain of. Our experience justifies no such confidence. As a matter of fact it may be stated broadly, that no first class work, either legislative or administrative, ever comes from our governments. Their only method of arriving at wisdom is by the futile one of interrogating the ballot; and they have long accustomed themselves to move only when they are forced to do so by public clamour, and in the direction indicated by that. They do not lead but follow; and in most cases reluctantly. They do not listen to the still, small voice—the inspiration of the wise man—but keep their ears steadily to the ground to catch the murmurs of the multitude. Their own safety in office is their chief consideration, and that can only be secured by votes. Votes are the test of everything, equally in matters of principle as in matters of mere expediency. Two and two will make five if the multitude say so. They have already said so in establishing the protective tariff. But the multitude in this respect are no worse than the so-called educated class. So much for the work of our governments. But how can it be expected that good work can be secured from any authority possessing power with practically no corresponding responsibility for the proper use of it—who can continually blunder and do wrong, yet incur no adequate punishment? For bad government there is only one means of punishment, namely, to change one set of blundering ministers for another set of the same kind, and that is no punishment at all. The real punishment falls on the masses, who are always the chief victims of misgovernment and of all other mishaps. The ineptitude and domineering folly of a Chamberlain may involve his country in a war costing thousands of valuable lives, £250,000,000 in additional debt to the conqueror with galling additional taxes and humiliating loss of national prestige; laying waste a whole country for the conquered and engendering evil passions and hate to last for generations; but the only punishment is to vote him and his party out of power. The members of every defeated and blundering government still have loads of friends to keep them in countenance, and they continue to have all the public esteem they ever had. Their blunders, like those of the medical profession, are buried and forgotten by all save the bereaved friends of the dead, and the struggling poor who have to foot the bills.

Think of the endless mismanagement of every government in wasteful or wicked contracts, ill-considered schemes of improvement—so-called; subsidies to baby industries which never grow up; to railroads, which, far from needing them, threaten to grow powerful enough to practically control the country; to all sorts of local schemes which should be provided for by local capital, and are practically bribes to strengthen the party in power. Then consider the army of government officials, consisting for the most part of second and third rate men, with no special training for fitness, appointed largely through political influence, and living in the atmosphere of political influence, where one must have no independent opinions, and where all the work is perfunctory or slip-shod—done to fill in time and draw the salary,—with little or no supervision or discipline worth the name.

Look at the rapidly increasing debts of all civilized countries, and consider what little restraining power, if any, is being exercised by the governments concerned to prevent this. No government is under the necessity of showing an annual balance sheet, with a profit to its credit on the year's operations. If it is short, even if caused by bad management and waste, it merely increases the taxes, or the debt. No one is punished, and an additional burden is loaded on the people.

Look again at our municipal government. If an object lesson were wanted in illustration of the art of "how not to do it," we should surely find enough there to satisfy us. The deplorable exhibition of municipal misgovernment now going on in the City of Montreal is enough to bring the blush of shame to every earnest citizen, and make him tremble for the future of his country.

As things are now developing in the world there is undoubtedly much that is bad; and, included in that category, there is no denying the ugly features shown by some of the great corporations like the Standard Oil Co., which is alleged to have used its enormous power to control railroads and through them to ruin its competitors, and then oppress the public by raising prices. One would think that the vast wealth which they control, together with the masterly organizing power which they undoubtedly possess, would give them such an advantage over their weaker competitors, that they would scorn to add to it by anything so contemptible as they are accused of. The railroads again, by giving rebates to favoured clients, who have practically bribed their trusted officials, have been perpetrating the grossest injustice on the ordinary trader, and so creating a feeling in the country that fair dealing is not to be looked for from them unless they are put under government control.

The disclosures in connection with the great life insurance companies have been most discreditable. In the United States several of the largest of these companies appear to have been used as adjuncts or donkey engines in connection with the great underwriting and speculative ventures for the benefit of special cliques—using, in short, the money of the great hard working and hard saving classes of the country in scandalous violation of a sacred trust, to play with and gamble with, for their own selfish ends.

We are also familiar with the operations of some of the public utility companies, such as street railroads, heat, light, water, and power companies, and others, where the only idea in the management of them seems to be to get out of the people just as much as they can be forced to stand, so that dividends may be paid on stock consisting largely of water, where also in such cases there is not infrequently more than a suspicion of collusion between the buccaneers, or some of their myrmidons, and some of the people's representatives in the municipal councils.

While such a state of things exists, and even threatens to get worse, it is idle to expect any lasting peace between classes, or any permanent civilization worthy of the name. The reign of fierce unrepressed selfishness, which itself is a natural evolution of an unorganized society, driven by the fear of want in a struggle for existence, has so dominated all our actions that consideration for others has been lost sight of; and we have reasoned ourselves into the belief that things are pretty much what they were intended to be; and at any rate that we ourselves are not conscious of any injustice, and that we have a good legal title to all that we possess. We can even lightly quote Scripture, "The poor always ye have with you," to show that this state of things is practically the fiat of the Almighty — the quotation being generally used to prove that poverty is inevitable. But we are under no such curse. If we have failed hitherto in making a success of social life it can only be due to the fact that we have not yet risen to the full stature of our capacity, to the full conception of what is possible in life, on condition of being true to the best that is in us, and obedient to natural law. There is undoubtedly a right way for doing everything. The universe is so constituted. It means harmony, not chaos; and human life is surely an important part of it. The solution of all our troubles therefore lies with ourselves, and there must be enough intellect and will in the world to succeed in it.

What is wanted to begin with, as Carlyle, before the middle of last century, preached incessantly to an unheeding world, is, "The organization of labour (not organized by the mad methods "tried hitherto), it is the universal vital problem of the world."

Again, he says: "This that they call 'organizing of labour' "is, if well understood, the problem of the whole future, for all "who will in future pretend to govern men."

Men for the most part, through all the centuries, have been so busy quarrelling with and killing each other, that there has not been much opportunity for peaceful development; and even at the present day one of the greatest burdens the race has to carry is the machinery of war, and the debt of past wars, a burden which seems to be endless, and ever increasing.

But within the last two hundred years, in English speaking countries particularly, there has been a chance of better things. Unfortunately, however, any organization of labour has hardly more than begun. But that it has begun I am prepared to maintain, and to find the germ of it in the joint stock company, the organization which has been so wickedly described as a thing that has no conscience, "no body to be kicked, nor soul to be d——d." It also, along with its kinsman, the so-called Trust, has become the special "bête noir" of the socialistic movement, the demagogic politician, and the taxation crank.

Not the least remarkable thing about the joint stock company is that it appears to have been a spontaneous growth—invented by nobody in particular — rather looked down upon at first, and only tolerated as a convenient arrangement for business which could be carried on in a mechanical manner, by fixed rules, but totally unsuited for the general work of the world. Adam Smith, writing about 135 years ago, says: "That a joint "stock company should be able to carry on successfully any "branch of foreign trade, when private adventurers can come "into any sort of open and fair competition with them, seems "contrary to all experience." He refers to the Abbé Morellet, a French economist, who gave a list of "55 joint stock companies "for foreign trade which have been established in different parts "of Europe since the year 1600, and which, according to him, "have all failed from mismanagement, notwithstanding they had "exclusive privileges." He goes on to say: "The only trades "which it seems possible for a joint stock company to carry on "successfully, without an exclusive privilege, are those of which "all the operations are capable of being reduced to what is called "a *routine*, or to such a uniformity of method as admits of little "or no variation," and he enumerates banking, fire and marine insurance, canals and water works as suitable business for such companies.

It seems amazing that so sagacious a man as Adam Smith should have been so far astray in his estimate of the value of the joint stock company for general business. At that time, however, the world had almost no experience of it, although joint stock banking had then been established in Scotland for three-quarters of a century. Its growth since has been stupendous. It has invaded almost every kind of business and manufacture, except perhaps farming; and it is quite evident that in a comparatively few years it will absorb the great bulk of the world's work. It is, in short, the greatest machine developed by our modern business life. Its success has been remarkable, considering that so little has been done by our legislators to control and direct it in the public interest. A proper constitution for the joint stock company has never yet been devised. If it were once done it would go far to solve the whole art of government. Where the successful joint stock company has no hold on any monopoly or special privilege, created by tariffs or otherwise, it is generally a most beneficial and creditable institution; and with this great advantage over individual enterprise, that its life can be made perpetual; and it is not wholly selfish as individually controlled business always is. Service in a well-managed long established joint stock company tends to develop, in my opinion, a better type of character than is developed in the service of individual employers of labour. In serving under the former, one has more the feeling of being under the rule of law, and not subject to personal whim, prejudice or caprice. The servants of a well-managed joint stock company can, and often do, acquire an *esprit de corps* and a devotion to the institution which is closely akin to altruism. It is the beginning of the altruistic spirit—a feeling of working for the whole. One conspicuous proof of this is that it is only since the advent of the joint stock company that any considerable and persistent attempt has been made to pension old workers, which is now done extensively among banks and some other companies. The practice is now growing rapidly, and it is somewhat surprising that no government has yet taken the hint which it gives as to the readiest, most economical and efficient method of securing what is now so generally advocated—namely, a national pension fund.

The writer has had long experience in connection with the management of joint stock banks, and, in the course of it, has seen how much can be done to improve conditions generally, in the interest of the workers, by making use of the principle of mutual co-operation.

It is customary in all banks and in most other companies to require each officer to give a bond for his fidelity. This work is usually undertaken by guarantee or fidelity assurance companies; and the usual charge is, or was, a half per cent. per annum. Here is an experience worth noting:

About twenty years ago the officers of the bank in whose service I then was had been for years paying a half per cent.

per annum on the amount of bond each had to give to the bank. They felt it to be quite an item to pay out of their slender salaries, for which they got absolutely no return; and not a little grumbling was the consequence. The matter had frequently been discussed, and it was at last decided to do something. The idea was conceived of the officers establishing a mutual guarantee fund to be called the Officers' Mutual Guarantee and Savings Fund. Each officer was called upon to pay a percentage entrance fee to this fund, and to contribute to it, besides, at the same rate at which he had hitherto paid to the Fidelity Assurance Company. But his contributions were to cease when he had paid it all, four per cent. on the amount of his bond. The amount paid in by each officer was put to his individual credit in the fund, and bore interest at five per cent.; and any officer leaving the service was entitled, within a certain date, to draw out the whole amount at his credit, with interest, less his proportion of any defalcations covered by the fund. The scheme has worked like a charm.

During the 20 years the amount paid in was..	$80,973 85
Interest at 5 per cent......................	34,956 59
	$115,930 44
Amounts refunded to retiring officers........	35,120 45
Balance now at credit of the fund..........	$80,809 99

The aggregate losses during the twenty years amounted to only $418.16, the cost of management was nothing at all. There was probably less work connected with it than would have been involved in looking after the policies of an outside company.

The aggregate amount of bonds now in force, for the whole staff of the bank, amounts to $1,681,000, which at the old rate of a half per cent. per annum represents a saving of $8,405 every year to the officers of the bank.

Simultaneously with the establishment of this fund, or not long afterwards, it was decided to establish a Pension Fund for all the officers of the institution, with provision for widows, and children under eighteen years of age. The officers were to pay four per cent. on their salaries every year, and the bank practically undertaking to give such annual contributions as to enable the fund to meet all its obligations under its constitution and rules. This fund also has cost nothing to manage; and in the event of an officer leaving the service, and so giving up his claim on the fund, he is entitled to withdraw from it all that he has paid in, with accumulated interest.

The establishment of these two funds made the greatest possible difference to the bank's service in a few years, in that it attached its officers to it, gave them confidence in their future, and tended to create a loyalty to the institution and an *esprit de corps* quite noticeable. The effect of such a fund, besides greatly adding to the security of the company, making its officers more devoted and loyal, practically does away with the necessity of life insurance for every employee or his dependents. It is an infinitely better provision than life insurance, and costs the beneficiaries infinitely less, while the cost of management is nothing.

If the first fund was an illumination as to the waste involved in outside fidelity assurance, the second was more so, as to the awful waste of life insurance. And it is needless to say that the effect of this illumination has not been lessened by the deplorable disclosures as to mismanagement and waste, brought out in the recent insurance investigations both in this country and the United States. One important inference to be drawn from these two experiments is that insurance generally, as now carried on by independent companies, is a most clumsy and expensive device, and utterly unfit to be regarded as worthy of a permanent place among the institutions of an advanced community. This refers to fire insurance as well as to life and all other kinds. The waste involved in all forms of assurance by outside companies immensely transcends any service it renders to the world.

Here are a few figures with regard to fire insurance losses. I quote from the New York *Evening Post* of 23rd November last: "By the last New York report it appears that the Stock "Companies reporting to Albany had written during the year "1905 fire risks to the amount of $25,559,701,000. The losses "paid were $103,805,000, whereas, if the losses had been at the "same rate as those of the Mill Mutuals they would have been "only $10,712,686—a difference of $93,092,314." This without reckoning at all the enormously *greater* expense of running the Stock Companies.

"The difference is not due to the character of the risks, because practically all of the business insured by the latter company is in *special hazards,* that is, risks where there are great probabilities of fire occurring, and great possibilities of loss when fire has started. Cotton and woollen factories, machine shops, knitting and pulp mills are not desirable hazards. Before the Mill Mutual was organized such risks were considered extra-hazardous. The premium rates then charged were from twenty to thirty times greater than the mill owners are now paying the Mill Mutual."

But, to resume consideration of the pension fund, and to look at it from a national point of view, why cannot it be made compulsory by law, that every joint stock company, as a necessary part of its constitution, and before it can pay dividends of say more than four per cent. per annum to its shareholders, shall provide a pension fund for all its employees on a basis, and on terms to be fixed by statute?

A law of this kind would simply enforce on all joint stock companies a duty already recognized and provided for by the best of them. The growth in this direction, of late years, has been natural and spontaneous. That surely should be a sufficient hint to the lawmaker. It would create a national pension fund in so far as that could be done through joint stock companies, at no cost to the government; and it would undoubtedly tend to hasten the reorganization of nearly all private business into corporate form—a movement which is already so evident, and which in any case is an inevitable development or evolution.

All wealth is the creation of labour—of brain and hand—yet the most important element of this producing power, by some accursed hocus-pocus, has its fair share of the product taken from it, and handed over to an army of non-producers, from government officials down through all the ranks of unproductive respectabilities—insurance men, bankers, lawyers, etc., etc., down to the Salvation Army and beggars. All these generally contrive to live well, although producing little, or nothing at all. What kind of folly is it for society or government to first appropriate a large share of what the workers have produced, and, when they find that these workers are impoverished, talk of devising some clumsy machinery, at enormous expense and waste, to return to them a fraction of what has been unjustly taken from them?

Why not let the producers, through their different organizations, administer what they themselves have produced—do so much of the government of the country as appertains to them and their dependents—instead of introducing an endless machinery of middlemen and outsiders to waste their substance? This is clearly the right thing to do. Let the makers of wealth administer it. Let the workers, while doing their own work of production, attend at the same time to everything necessary to their well-being as responsible members of the community, which can all be done within the limits of their balance sheets, and cost the rest of the people nothing.

We shall never have first class government except through our great producing companies, properly organized; who will not only organize labour, but the whole community; and, instead of putting more and more on the shoulders of government, will take more and more on their own shoulders, to the relief of government, and the great benefit of all. Success with them is a necessity, for they have their annual balance sheet to face, and to fail means terrible punishment; but who is punished for government failures and follies?

Take such companies, for instance, as our great railroads: why should any workman connected with them, or any one dependent on him, be allowed at any time to become a charge on the community? It is much more in the public interest that these companies should be responsible for all their workers, and their dependents, than that they should pay big dividends, or sell new stock to their shareholders at par when it is worth nearly double in the market, which is only another way of watering stock and piling new burdens on the people.

Then, take our street railroads, our light, heat and power companies, our coal and iron companies, our textile and other companies, telephone and telegraph companies, steamship companies, etc., etc. Think how much more beneficial it would be to the community that these companies should regard it as one of their first duties to take proper care of all their people in the way indicated, rather than spend their energies in efforts to pay big dividends—sometimes largely on bogus capital.

If banks can do this, which have no monopoly of any kind, all other companies can, and should be forced by law to do it.

I am not overlooking the fact that at present most of our joint stock companies are nearly as selfish as individuals, and as indifferent to what becomes of their employees; also that they are often controlled by self-seeking, grasping capitalists, in pursuit of nothing but their own selfish ends. On the other hand, the fact already stated, that only since the advent of these companies has there been any effort made to establish pension funds for workers, shows clearly enough that a great step forward has been taken in the direction of doing justice to the workers, who have so long been neglected, simply because they were unorganized and helpless; and have been taught to believe that things could not be otherwise.

By throwing on those companies the whole responsibility for the material and moral well-being of every man, woman and child directly dependent on what they produce, a new spirit will certainly take possession of them, and they will begin to realize the splendid role they are called upon to fill, as organizers, governors and guardians of their special section of the community—not merely producers of wealth for the few, which they have hitherto always considered their sole business, but responsible at the same time for raising, what is the greatest of all products, the finest possible men and women. By harnessing the great producing agencies to the loads involved in providing schools, colleges and teachers, doctors and hospitals, and many other necessities now left to be badly supported by charity, greater efficiency would be secured, and much greater economy. What, for instance, can be more unsatisfactory and discreditable than allowing our great hospitals to be supported by the charity of a comparatively few, jogged by constant begging? Why should there be any charities at all in any well regulated community?

Every necessity, as well as every luxury demanded by civilized life must be paid for from the product of labour. Therefore, let organized labour have the largest possible share in managing as well as supporting what institutions are considered necessary by the community.

Once the workers got it clearly into their heads that things are being managed as much in their interest as in that of the capitalistic shareholder, there would soon be an end to the socialistic movement.

It is a curious phenomenon of our civilization that what we are accustomed to call government (legislative and administrative) is almost the only department of human activity which has not become specialized. In all other directions special training is a necessity, but for what should be, perhaps, the highest work of all, our democratic age thinks any body can do,—any body whom the mob selects—and it is not in their nature to select either the wisest or the best—not that they do not wish to do so, but simply because they cannot. For there is no fact more certain than that it requires a wise man to recognize another wise man; and the multitude are not often wise. This is a much greater difficulty than some of those we hear much more about; but it is inherent in democracy, and we must make the best of it. But, surely, if any argument could be conclusive as to the absolute necessity of doing more to raise the condition of the masses of the people than has ever yet been done, it should be the fact that they already have potential political control; and while it may be true that they are using their power neither worse nor better than the well-to-do classes, it is also true that we are not selecting the best kind of men as legislators and governors. In that, as in many things, we are paying "too dear for our whistle," and not getting what we pay for. It would seem that what is required is some guidance for the mass of voters in their selection of the men who are to govern them and make laws for them—although the latter duty should get less and less urgent as we make the wholesome discovery that we have too many useless and mischievous laws. What better guidance could the workers have than to select for their representatives the practical managers and leaders in their different callings—those, say, who have reached the age of sixty, and have retired on an adequate pension, after a thoroughly well tried and successful life? Men who have been dealing with hard facts all their lives, and have learned the art of seeing into and doing things—the kind of men who would honour the position, and would be ready and able to serve their country for the honour alone. No better representative could be found, in general, than the well educated and thoughtful hand and brain worker, who has proved his capacity to lead his fellows and gain their respect and esteem by making a success of their common work. What an improvement he would be on most of our present representatives, whose chief stock in trade is the ability to talk and scheme but with little or no insight into anything—the machine politician, the hungry lawyer, the grasping monopolist, the greedy speculator—the great army of self-seekers, all bent on securing a front seat in either the government or the opposition wagon; and all ready at any time, in view of their extraordinary merits and the increased cost of living, to vote in a body to raise their own pay—which is to cut another slice out of what is left for the poor workers.

It is pretty evident to all who have any insight that the present state of things cannot continue. The wide and deep discontent among the working classes everywhere, in spite of the great, almost phenomenal prosperity in all the leading countries, is a very striking fact. What may be expected should hard times become as general as the good times are now? And what preparation are we making for such a contingency?

It would seem that in one direction we are confronted with an enslaving, monopoly-infested capitalism, with a bankrupt government; and on the other with a desolating, paralyzing, chaotic socialism: the Scylla and Charybdis respectively, plainly marked in our life chart. If we cannot steer between them there will not be much hope for us. The only hope is in the universal and efficient organization of the workers by means of the improved producing corporation or company; and through that the reorganization and simplification of government and the whole social fabric.

Men are driven by two great passions: the love of gain, by which they can enjoy all material good things; and the love of games, by which, in the spirit of emulation, they can prove their individual prowess. An endless supply of energy is always available for the pursuit of these objects. They may be said to provide the steam or electricity which drives the human engine. The wise plan would seem to be to make full use of this divine and exhaustless energy, by harnessing it to all the necessary loads which our civilization requires to be hauled, and so make a real success of the greatest of all games—the game of life; in playing which, every man and woman born into the world should have a fair chance to earn what distinction each, by nature, is capable of.

It would mean the government of society from the inside, with a keen sense of responsibility for the condition of everybody, instead of, as at present, from the outside, with no sense of responsibility worth speaking of.

It would mean government by men who thoroughly realized where every dollar had to come from, and how every dollar should be guarded; instead of, as at present, by men who betray no consciousness that they, with all other non-producers, are all supported by the workers; and that these workers have to produce every dollar which the heedless rulers so lightly squander.

It would not at once settle all disputes between capital, management and labour, as to the relative share of the product due to each; but it would undoubtedly tend to moderate the greed of the two former claimants, and it would greatly increase the amount to be divided; to which increase labour would have an absolutely just claim.

It would create a condition of society where every man would be in no small degree his brother's keeper. The man who was not obviously doing useful work in the service of one or the other of the big producing companies would find himself called upon to explain how he was getting a living. Idleness would become impossible after one generation, when all youth has come under universal drill; and with the absence of idleness crime would also be enormously reduced. There cannot be a doubt that if humanity is ever to make any real moral progress it will have to be done by raising their material condition. It is time to stop talking philanthropy and religion in this connection and to inaugurate justice instead.

Under such a *régime,* reforms which are now impossible, on account of the fierce opposition of selfish monopolists or other class interests, would have a totally different aspect. What was obviously for the good of the whole would not have to be agitated for through generations before anything could be done. We might even acquire wisdom enough to abolish custom houses and adopt the single tax.

THOMAS FYSHE.

AS OTHERS SEE US.

THE position of Canadian banks as to available reserves has been steadily strengthened during recent months. In view of present financial storm and stress in the United States, the wisdom of such a course seems now to admit of no reasonable doubt. To some, the banks' preaching of caution to their customers may have seemed in certain instances overdone; and their practice of late months unduly drastic. But there is present cheer in the assured stability of the position attained, even though on some occasions too much emphasis may have been put upon the scarcity of money, unfortunately fostering the fear that there were not even funds to carry on the business of the country on a conservative basis.

In so far as the warnings and efforts of the bankers have been directed against too rapid and ambitious industrial and commercial expansion, the effect has been helpful to the general welfare. The business community, more especially perhaps in the West, under the stimulus of unusual prosperity has been prone to over-rapid expansion. Money that should have gone to meet current obligations was devoted to extensions of premises or enlargement of equipment—too often, also, to mere land speculation. The very increase in banking facilities—afforded by the establishment of new branches called for by business growth throughout the Dominion—meant a certain amount of stimulation to the unprecedented activity of the country. To cry halt in the apparent hey-day of prosperity was not the easiest thing in the world for the banks to do. Possibly some of them did not do so soon enough—*humanum est errare.* Or they may be criticised again for too sudden a putting on of the brakes. But this is a case where (to shift the metaphor) it is better for the shoe to pinch for a time than it is for it to burst. That gradual stretching will ere long ease the pinching is, of course, to be hoped for. Now that speculation of all kinds has been pretty thoroughly checked, and security markets are at so low a level, the bankers may in the not distant future find that they can loosen out somewhat the resources which they have recently felt impelled to hold closely in hand.

Fortunately, Canadian bankers in general are not given to losing themselves in times when carefulness and alertness are needed. They have coolness of head and strength of backbone, and pursue their calling with a greater degree of calmness than seems to obtain among our neighbors to the south. Whatever comes to the United States, the chartered banks of the Dominion are in a position to protect themselves and safeguard the legitimate financial interests of the public which they serve.

—*The Chronicle* (Montreal).

BANKERS' ASSOCIATIONS COMPARED.

THE difference in the proceedings at the annual meetings of the American and of the Canadian Bankers' Associations is marked. The former recently held its 1907 meeting at Atlantic City. The financial journals were pretty well filled with the speeches and addresses delivered; some have issued special numbers entirely devoted to a report of the gathering. Besides the American, or general, association, a great many of the States have their own associations. These, too, have their annual meetings resembling that of the big association, but on a smaller scale.

During the season of the meetings there is a tremendous mass of banking literature to be perused by the student who undertakes to follow all such utterances. The speakers belong to widely differing classes of banks, and come from all parts of the Union. Thus there is great diversity of opinion on the subjects that are discussed. The result must be somewhat confusing to the earnest knowledge seeker. He cannot always easily decide which of the warring ideas he should accept as reliable.

Very different is the meeting of the Canadian Association. A short notice in the daily papers, comprising the list of notable banking representatives gathered for the meeting, with, perhaps, a statement that a certain subject was or would be discussed, is all that is usually published. A few years ago the journal of the Association published an account of the proceedings; this has been discontinued. No doubt the financial community and the public in general would be greatly interested in the discussions of the bankers. Apparently there is some good reason for not publishing reports.

In all probability the discussion always covers, along with general subjects that could well be revealed, matters pertaining to particular institutions and other topics to which it would hardly be advisable to give publicity.

In many respects the Canadian Association has a decided advantage over the American. There is more solidarity in the influence it wields. It is a comparatively easy matter to have the representatives of the thirty-four banks to see the major questions affecting banking with one eye. When they have agreed, their voice is that of the whole banking interest of the country. It is, therefore, entitled to full consideration by Parliament and the Ministry of the day.

To get the representatives of nine or ten thousand independent banks, from the cities and from the country districts, from north, south, east and west, to see almost any great question affecting American banking with a single eye would be vastly more difficult. Whatever attitude the American Association, by majority vote, decides to take on asset currency, or on other questions, there is likely to be a minority more or less vehement in opposition. So it is more difficult to influence legislation.

The advantage possessed by the Canadian Association is in the centralization of banking in Canada as opposed to decentralization in the States. Each country is wedded to its respective system. Canada will have nothing but branch banks; the United States, independent banks. The reports of the Comptroller of the Treasury show that the creation of banks with small capitals proceeds steadily south of the boundary. The following table shows the number of national banks organized, their aggregate capital, and the average capital per bank, as at each report date since the end of 1905:—

	No. of Banks.	Capital	Aver. Capital per Bank.
Jan. 29, 1906......	5,911	$814,987,743	$138,000
April 6, "	5,975	819,307,406	137,000
June 18, "	6,053	826,129,785	136,000
Sept. 4, "	6,137	835,066,796	136,000
Nov. 12, "	6,199	847,514,653	137,000
Jan. 26, 1907......	6,288	860,930,624	137,000
Mar. 22, "	6,344	873,669,666	138,000
May 20, "	6,429	883,690,917	137,000
Aug. 22, "	6,544	896,451,314	137,000

Since January 29, 1906, 633 new banks were organized—up to August 22, 1907. The increase in capitalization was $81,463,571. This increase represented additions to the capital of existing banks, as well as capital called up by the 633 new banks. It is thus clear that the average capital of the new banks could hardly have been in excess of $100,000 per bank.

In Canada, there have been eight new banks organized and opened for business since the end of 1901, the Sovereign being the first to open, in April, 1902. But the absorptions and failures during the same period have been almost exactly equal, in point of numbers, to the new banks created. The number of banks in operation stands at the same figure now as it did six and a half years ago. The average of capital per bank has increased, being now in excess of $2,700,000.

A glance through the list of subjects discussed at the Atlantic City meeting shows that the bankers in the States have a great many troubles from which their Canadian brethren are free.

The lack of asset currency, lack of good savings bank facilities in small places, trust company competition, defective railroad bills of lading, are a few of them. They affect banker and customer, too. They constitute only a part of the real grievance which the American people have against their banking system.

Here the critics of the banking system are driven, by the *lack of real grievances of importance, to imagine them.* The complaints heard in Canada since the present monetary stringency became troublesome concern the policy of the banks, not the banking system.

—*The Monetary Times.*

THE PRESENT COST OF MONEY.

WHAT IT MEANS TO RAILROAD AND OTHER CORPORATIONS.

IN accounting for the present depreciation in the quoted values of railroad and industrial shares and securities, says the *Railroad Gazette,* it is often mentioned and it is apparent that a general cause is the world-wide demand for money, aggravated in the United States by a hostile governmental and legislative attitude. It is interesting and perhaps worth while to look a little farther and see if this unprecedented demand for capital among all the great nations is comparatively permanent or passing. In the period of from two to five years ago the transportation and other industries in this country were at high tide, as they still are. They needed and easily got, at reasonable interest rates, all the money needed for rapidly increased facilities, and this money came from England, Germany, Holland, and for the first time in large amounts from France, as well as from our own people. In that period the industrial situation on the continent was none too good. In spots it was bad.

Looking back for thirty-five years there is uniform evidence for an inference. During our periods of most acute depression following the years 1873 and 1893, as well as during our other severe but less keenly felt reaction, the conditions in Europe were quite different, and sometimes were reversed. For a generation our seasons of highest prosperity have not been coincident with foreign prosperity. For the first time in recent history we meet long continuing prosperity in the four great manufacturing nations. They are in apposition. More and more capital expenditures in all these countries have at the same time become highly profitable, both as a means of earning more and in order to produce cheaper. When it pays to borrow capital money for great undertakings at from six to seven per cent., and when Fortune, perforce, smiles alike in three languages, the resulting effect on the interest rate is inevitable.

And the awakening; the certain effect on the prices of shares, notes and first-class bonds? The price of bonds is affected the least. The holdings of restricted institutions, trustees and estates are the last to be changed, but the market is narrowed and almost choked. The device of two and three-year notes of great corporations, to tide over the times of too widespread prosperity, has been useful, until the coming of the 7 per cent. rate; then the conservative officer halts. As we look back at it now, the prices of dividend paying stocks have been too slow to yield to the pressure. Up to about a year ago, strong stocks may be said to have sold at a price to yield from 4 to 4½ per cent. Speaking generally, good stocks are now quoted on a 6½ to 7 per cent. basis. With a prevailing interest rate increased from 4 to 5½ per cent.; from 4½ to 6; and from 5 to 7 per cent, varying with the time and the security, there comes quite late a depreciation in the prices of good stocks of from 17 to 33 per cent.

The object of this reference is not at all to consider the investment or speculative value of corporate securities at present prices; it is simply to point out to officers of railroad and manufacturing companies that this present depreciation in security prices, this increased interest rate, mean to them not only added difficulty in getting new capital, but also an increased operating cost, or, rather, more deduction from net earnings. They buy materials and hire labor and money. The cost of material has increased less than is ordinarily counted. For example, the cost of locomotives per unit of horse-power developed is less now than it was ten years ago. The cost of labor has increased quite 20 per cent., rated in cost per hour, but its efficiency has decreased largely — by a percentage which no one is competent to estimate. The added cost of money comes last, and it is evidently as much as 25 per cent.

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EDITORIAL NOTES

A Happy New Year.

To our readers, from the Atlantic to the Pacific, we extend good wishes for the new year. The seasons roll on—the old die—the elderly become old—and the young, one after another, slip their home-cables and sail away from us. But each succeeding year brings to the mind with force and interest the friendships of youth, and the season induces a train of pleasing thoughts and associations.

Compulsory Celibacy.

Once again a reader of the JOURNAL wishes to ventilate in its columns his opinion upon the restrictions placed by some banks upon matrimony. This paper discussed the delicate question in 1903 when a leading Chicago banker warned the young men in the service of his bank not to marry on less than $1,000 per year. Any attempt to take care of a wife and family with an annual income below the sum named, he characterized as "nonsensical folly," and he professed to feel responsible for any misery which might follow his approval of such nonsense.

To repress love, however, is very difficult—

The more thou damm'st it up, the more it burns:
The current that with gentle murmur glides,
Thou know'st, being stopp'd, impatiently doth rage.

Compulsory celibacy has aroused bitter feeling in all ages of the world. Yet any gentleman of mature age and experience who warns young Celadon to wait for his Amelia until he is able to support her in comparative comfort without reducing his own rations and raiment is rendering true service to young and foolish lovers.

The Retort Timely.

A good story is being circulated among bankers of an exchange of pleasantries between an American lady and a bank teller, presumably a quick-witted Irishman, in a Canadian bank at one of its branches near the United States border.

The fair American transferred her money to this side of the border and deposited same with the Canadian bank. After drawing several cheques against her account, the lady asked the teller to return the cheques. He remonstrated against immediate acquiescence with the request. The fair depositor, becoming indignant, remarked that in her country the banks readily returned all cheques to their depositors. The Canadian bank official, we hope he was bland and smiling. is credited with the following prompt rejoinder:—"Yes, but Canadian banks always surrender the money represented by the cheques." Exit, fair but ruffled American.

The Power of Depositors.

After expressing the opinion that the recent bank panic in the United States was "a mere stampede on the part of frightened people to get their money out and lock it up," a leading New York paper, *The Financier,* advocates limiting the power of depositors to withdraw their balances on demand. The paper in question is in favour of fixing the percentage of deposits which might be authorized for withdrawal without previous notice, and says that, when the bank of deposit claims to be solvent, the Governor or the Bank Superintendent of the State should be authorized to determine to what extent the demands of depositors be granted.

The matter may, as *The Financier* states, be worth discussion, but would it not be better for the United States bankers to ascertain the causes which lead to frequent monetary disturbances rather than to adopt plans of relief calculated to discredit their country in the eyes of the financial world.

However, we reproduce the article in this number of the JOURNAL as evidence of the readiness of resource of our intensely practical neighbours.

Overhead Wires.

The entire country is interested in the safety of its metropolis, and when a committee of electrical experts report that "in no other city does there exist such hazard to life and property through street construction for electrical purposes as in the City of Montreal," its inhabitants may reasonably expect some action to be taken by the representatives. Nearly a year has elapsed since Mr. R. A. Ross, as chairman of a select committee of able electricians, recommended that the wires of all companies should be placed underground in *the central districts of Montreal at once.*

How much longer will action be deferred? Such apathy and indifference to the safety of life and property ought to make Montrealers blush with mortification. The interest of bankers in a matter affecting the safety of property in Montreal is manifest enough to create surprise that they do not seek representation in the government of the city.

Poor Canada.

The temptation to reproduce the remarks of Mr. Andrew J. Frame, banker, of Waukesha, Wisconsin, made just a year ago, during one of the numerous discussions of the very old United States currency question, is irresistible. Andrew, having been informed that he and his fellow bankers might find in the Canada Bank Act something to study, delivered himself as follows: *"Canada's total banking power is less than that of little Massachusetts. She is asleep compared to our activity, and it would seem to require a very vivid imagination to find any parallel conditions there."*

We, in the utmost friendliness, would recommend Andrew to go to Texas and its bankers for information about Canada and its banks. It may also interest him to know that the Canadian Bankers' Association for two years past has been flooded with requests from big bankers, political economists and college debating societies in every State of the Union for information about the banking and currency system of this sleepy Dominion.

A Hint to Corporations.

Signs continue to multiply of the growth of a public sentiment adverse to some corporations now enjoying great public privileges. The JOURNAL has upon several occasions upheld the right of controllers of great enterprises to secure large profits therefrom. The pioneers in new industrial fields who assume great financial risks and display unusual capacity for useful work are fairly entitled to a rich reward, and their success ought not to arouse any degree of envy. But when the difficulties have been overcome, and the risky venture becomes an assured success, the public will always in the case of great corporations privileged to enjoy public franchises grow restive, unless some occasional concessions be made by said corporations.

The spasmodic demand for public operation of light and power plants, street car lines, telegraph and telephone services, and the like, owes what little strength it possesses less to belief in the efficiency of municipal enterprise than to conviction that some of these corporations have been and are unduly grasping.

J. T. P. K.

A Tough Problem.

Some years ago, Mr. James B. Forgan, President of the First National Bank, Chicago, referred to the banking troubles in the United States as "a tough problem." He complained that all his efforts to assist in improving the monetary situation were rendered abortive by the stubborn opposition to branch banking and kindred suggestions, and he admitted that any solution of the difficulty was made virtually impossible owing to the unalterable conviction of his opponents that branch banking, even if good for the nation, would imperil their personal interests.

Perhaps, now that public opinion favours a much needed change in financial legislation, the men who would not listen to any arguments in favour of branch banking may view with contempt their opinions of yesterday. Canadian bankers are constantly being requested by their *confrères* in the United States to furnish information about the financial system under which the Dominion has seemingly prospered, and it is to be hoped that these enquiries betoken a desire to ascertain if the problem described by Mr. Forgan as "tough" in 1903 is now tender and ready for solution.

Of the stringency in our neighbour's money market at the time in question, the ex-Canadian banker said in 1903:—

"The principal source of alarm each fall is the weekly statements of the New York associated banks. They do much more harm than good. They serve to aggravate the conditions existing. To hear people talk when the reserves of the New York banks run low, you would think the money of the country had disappeared off the face of the earth. The total amount is unchanged, however, and is in better use for the country, if anything, when it is sent out West to move the crops. Uncle Sam simply moves his money from his city bank, where he has comparatively little need of it, to his country bank, where it will be useful. How foolish it is, therefore, to measure the amount left in the city bank and get scared, and not measure the amount in the country bank. That is exactly what the New York bank statements do.

"Now, if branch banking existed in this country as it does in Canada and England, and the country banks were branches of the city banks, a report on the cash and reserves of the city banks necessarily would include the money in the country banks and there would be no cause for alarm. Practically the same amount of money would be shown in all cases, only the place where it was being used would change.

"How best to improve by currency legislation, the existing situation and make easier the annual shifting of funds and diminishing of money in the reserve centres is a tough problem. I'll admit it is too hard for me to solve. I would never be in favour of an asset currency unless we had branch banking. Some of the other members of the Chicago committee are unalterably opposed to branch banking."

Paying for Currency.

If actual money sells at a premium, the currency involved is on a depreciated basis, and yet that has been the condition of things in the large cities of the United States for a longer period than in any previous panic.

It may not be seemly for Canadians, at such a time as this, to indulge in criticism of the events which began with the flurry in New York last October, but it is interesting to note the reasons advanced by those most interested for the establishment of a premium on currency.

While it may not be strange that actual money should sell for more than its fixed value, when much of the necessary supply is withdrawn from the banks and hoarded by foolish customers, it is surprising to find *The Financier* (N.Y.) boldly blaming the banks for protracting the period of stringency by figuratively hiding the supply of bread in a time of famine.

The Financier says:—"Some economic students call the present conditions disgraceful, and all regard them as unique, but a fair verdict is that the currency premium at this time is unnecessary and is due either to a lack of confidence between the banks themselves or a failure to appreciate the danger which the continuation of this situation means. It is high time the banks should take the latter possibility into consideration, and decide whether they can afford to discredit themselves longer in the eyes of the financial world. If they have the actual reserves in their vaults which they report to the Comptroller of the Currency, and to state officials, there is no reason why they should longer refuse to pay it out on ordinary demand.

As long as they sit back and permit the spectacle of bargaining in currency to continue from day to day they cannot blame people for refusing to have confidence in them. Whether merited or not, the accusations which they are making against each other are undignified and the effects are harmful in the premises.

"We do not mean to accuse the banks of wilfully obstructing progress, but it is an absolute fact that the country could go on an even currency basis to-morrow if banks gave the word. Interior institutions which are withholding funds from necessary use have no reason for keeping these funds out of their proper reserve depositories, and, on the other hand, reserve banks might relax restrictions that have been imposed on withdrawals. The banks must face the situation as it exists, and begin business anew. As long as they are inclined to continue a policy which makes customers fearful, they cannot expect business to revive or confidence to return. There is more actual money in the country to-day than is necessary for business, and if the owners or custodians of it will only consent to do their share, the beginning of 1908 will be marked by a more cheerful feeling, and a substantial revival of industry everywhere. In this connection it might be stated that the Treasury is responsible in part for the currency premium since it holds to the obsolete principle of demanding actual cash in payments of revenues, thus throwing doubt on the ability of banks to meet current obligations."

TABLE OF CLEARINGS.

Comparative Totals of Bank Clearings for the past five years at the cities of Montreal, Toronto, Winnipeg, Halifax, Hamilton, St. John, Vancouver Victoria, Quebec, Ottawa, and London.

	1907	1906	1905	1904	1903
Montreal.....	$1,555,729	$1,533,597	$1,324,314	$1,065,067	$1,113,978
Toronto......	1,220,905	1,219,125	1,047,491	842,097	808,748
Winnipeg.....	599,667	504,585	369,868	2,94601	246,108
Halifax.......	93,587	91,837	89,252	90,116	93,350
Hamilton.....	88,104	78,480	68,386	59,003	53,420
St. John......	66,150	60,042	52,836	51,423	49,013
Vancouver....	191,734	132,606	88,460	74,030	66,216
Victoria......	55,330	45,615	36,890	33,070	30,818
Quebec.......	107,543	91,618	85,795	79,844	88,329
Ottawa.......	152,969	135,327	120,892	106,638	106,084
London.......	65,760	57,863	50,430	45,552	42,831

(000 omitted.)

OUR SELF-SATISFACTION.

WHEN Dickens first visited the United States in 1841, he found bragging almost universal there; and Americans, as one of them admitted to him, dearly loved to be "cracked up." When he published his "American Notes" he soon discovered that impatience of criticism was equally characteristic of the country at that time. His strictures awoke a chorus of remonstrance and abuse. But the United States are no longer over-sensitive even to snarling criticism. They know their greatness and they know that their greatness is known. The great drama of the Civil War opened the eyes of Europe, which hitherto had viewed "the States" as an outlandish people and a negligible quantity. Their quick crushing of Spain and their evolution into a world-power completed the world's appreciation of their strength. Their proud proclamation of the Monroe Doctrine has passed unchallenged by the powers. Meanwhile the culture and capacity of Americans have been proved and illustrated by their inventors and orators and humourists, by their poets and philosophers, by their model envoys accredited to the British and other governments, and by their present masterful President. Moreover, they realize and admit the evils of their trusts and machine-government and in many States are working strenuously to remove them. Though they do not believe in "the open door," except in foreign countries, though they close their ports against the honest poor and burn an occasional nigger, the greatness of the United States now needs no advertisement. If they do not yet welcome fair criticism, as one ought to do, they can consider it calmly, and unfair criticism they can afford to smile at.

But we have not reached that happy stage in Canada. We are so self-satisfied just now. We are so given to hymning the greatness of our country and to forecasting its vast possibilities. Our mood is so very receptive of praise and so very impatient of criticism. This overestimation of ourselves is only a modern and, it is to be hoped, a transient fault of

Canadians. During a year's residence in Lower Canada before Confederation I was struck by the modesty of the inhabitants, both British and French. Fine, manly young men seemed to suffer from diffidence. There was a general lack of self-assertion; and the same was doubtless the case all over British North America. Just now the pendulum has swung too far in the opposite direction. Human nature being prone to violent reactions, and our progress and prospects having grown so encouraging, depression and diffidence have given way to confidence and self-esteem. And, naturally enough, these virtues have here and there degenerated into arrogance and boastfulness.

There may be something in Sam Slick's idea that "braggin' saves advertisin'" for traders. But it is not a pretty national trait, and it is to be hoped that our rather demonstrative self-appreciation may not last long, for it entails several disadvantages.

It makes us generally impatient of criticism. Being in that self-approving mood when we expect to be "cracked up," we are disposed to resent even incidental censure. A number of prominent British journalists recently visited us, and a few of them did not confine themselves to appreciation. They ventured to satirize some Canadian types and conditions, and aroused a storm of vituperation. They were treated to showers of mud as copious as those which rewarded poor Lord Alverstone's effort to do the best he could. "In the minds of my critics," says Harold Begbie in a private letter, "there appears to exist some idea that Canadian soil is sacrosanct. Criticism stops at Liverpool, and eulogium begins at Quebec...... Do we not all criticize each other—Frenchmen, Germans, Russians, and Yankees? It is such a pity to be hyper-sensitive."

The sensitiveness extends itself to domestic criticism. If a Canadian writes vigorously against some immorality prevalent in his town or province he is apt to be accused of fouling his own nest or of washing his dirty linen in public. The politicians know the antipathy of the public to disillusionment, and they make an effectual use of it. If anyone ventures to show up jobbery and corruption in Dominion, provincial or civic governments, he is shouted at as a muckraker. It is sometimes hinted that, even if his charges are not groundless, he might be better employed than in advertising the sins or sores of his town or country. Pernicious doctrine! Just criticism is a thing to be encouraged; exposure must precede reform. A man who parades the irremediable defects of his country is certainly an enemy to it; but the man who exposes its remediable faults with a view to their correction is a patriot.

The vivid appreciation of our virtues and deserts naturally disposes us to over-expectancy. Any claim made by the Dominion against the Mother Country, or against a foreign nation, we are wont to support in an unquestioning spirit which we mistake for patriotism. We assume the validity of our country's contention, partly because the arguments against it are not fairly or fully given by our newspapers, partly from our predisposition to exaggerate what is due to us. Are we not already the owners of the twentieth century? And have we not some prospects of annexing the milennium also? That is to say, when we feel somewhat more millennium-like than at present—less selfishly exclusive of Asiatics in British Columbia, less intolerant of Norwegian competition on our Atlantic coasts. Even before we came into our heritage of the twentieth century we had generally assumed a partnership in the Imperial establishments without the troublesome formality of paying for it. In 1896, following a dictatorial message of President Cleveland and the Kaiser's impertinent telegram to Kruger, we were threatened by a hostile combination, and a thrill of solidarity shot through the Empire. In addition to her regular fleets, Britain commissioned a powerful Flying Squadron as an object lesson to her enemies. It is said that the Admiralty was requested to send this squadron as an attraction for a carnival about to be held in a Canadian seaport; but the reply of the Admiralty was never made public.

Many of us expect the Mother Country to jump at the throat of any nation having a difference of opinion with us, and lightly to imperil the peace of the world for some controverted contention of ours which reckless newspapers assure us is indisputable. To this day it is accepted as an axiom by most Canadians that there was a craven surrender of their rights in the Alaska boundary award, and Lord Alverstone was howled at from Victoria to Cape Breton. Yet, in the opinion of most experts who have thoroughly examined our case, we got as much as we ought reasonably to expect. With true patriotism *The University Magazine* has begun a series of articles, erudite but anonymous, to correct the popular verdict on this matter, as well as concerning the Oregon boundary dispute and the Ashburton treaty. And with the same wholesome object the editor of that excellent quarterly, a born Canadian, contributed to the October number an article on "The Patience of England." This article would have a wide circulation if editors who love to magnify the neglects of Britain and to belittle her services thought it as important to do justice as to pander to the prejudices of the people.

A large number of Canadians are satisfied with our unrepresented and inadequately contributing status in the Empire. "We do enough for the Empire in developing the Dominion and supplying the garrisons of Halifax and Esquimault." So they think, with consciences soothed by sophistry. Have they not been told so over and over again by politicians and political editors of both parties? For both parties seem agreed that the manly claim of a co-ordinate standing in the Empire would alienate the French vote. Some hope to pass from our subordinate and humiliating condition without cost, to obtain the treaty-making power or a maimed representation without fair contribution. With the mean contentment of some living Canadians, with the stingy aspirations of others, compare the manly restlessness of Howe: "If there are any communities of British origin who desire to enjoy all the privileges and immunities of the Queen's subjects without paying for and defending them, let us ascertain where and who they are—let us measure the proportions of political repudiation now, in a season of tranquility—when we have leisure to gauge the extent of the evil and to apply correctives, rather than wait till war finds us unprepared and leaning upon presumptions in which there is no reality."

In 1832 David Chisholme published at Three Rivers a book voicing a discontent with our subordinate position, which contrasts strikingly with the satisfaction that some of us feel and others pretend to feel. It was a plea for representation in the British Parliament. "Perpetual pupillage," he pronounced to be "alike unworthy of child and parent, of minor and guardian." "The boon which we seek," he wrote, "is not entire emancipation...... Our desire is only to continue members of the happy family in which we have been born and brought up; to draw both the paternal and fraternal bonds tighter around us; and to strengthen the chains of the family communion. But we desire at the same time to enjoy equal rights and equal privileges. We desire to be put on the same footing as the other members of the family...... Being joint heirs of the inheritance of our forefathers, we desire to be consulted in its management...... Being of age and of sound mind and judgment, we desire to be acknowledged as men capable of filling our station at the council board...... Being now of mature age, we desire that our leading-strings may be cut away from us, and that we may be permitted to pursue the course which right and nature alike dictate. We desire that the emblem of manhood, the *toga virilis,* may be delivered to us."

It is not likely that many Canadians are so conceited as to think that the prestige we give the Empire by belonging to it is a sufficient contribution. But a good many do hold that, while the mother country has the perpetual responsibility of maintaining our rights at home and abroad, we should fight for her only if the *casus belli* happens to have our approval. Is not this a rather one-sided notion of reciprocity?

In our banking system, in our appointment of judges during good behaviour, and in some other particulars we may be ahead of our republican neighbours; and we certainly are superior to most foreign nations in our natural resources, and, perhaps, in some of our institutions and customs. But many of our less educated citizens feel a general sense of superiority over outsiders, Asiatic, American and European. This they sometimes show in a way that is offensive to immigrants and discouraging to immigration, which it is our policy to promote. Forty years ago strangers coming to Canada, even from country districts of Britain or the United States, were not looked down upon as inferiors, and seldom laughed at as outlandish. Coming from one of the centres of civilization, a Londoner or Parisian or New Yorker even brought a slight prestige with him. He was received with modest kindness, and his peculiarities were as likely to be thought marks of superiority as of inferiority. To-day immigrants are complaining that their costumes are ridiculed, their manners mocked, and their pronunciation mimicked before their faces. They are made to feel themselves strangers in a strange country. In their boorish reception they fail to see any sign of Canadian superiority.

But, if Johnny Cannuck has a swelled head, he has a sound heart, and his present rather inflated ideas of his virtues will probably shrink to more modest proportions before many years pass by.

F. Blake Crofton.

THE STUDY OF LAW AS A FACTOR IN ONE'S BUSINESS EDUCATION.

IT is becoming generally recognized that special provision must be made for the suitable training of those who are intended for a business career. The University of Birmingham has recently been inaugurated with the direct purpose of providing the highest possible commercial education, and efforts in the same direction are being made on all sides. Thus in Canada we find that McGill University has recently instituted "a systematic course of study extending over two years, and intended as a preparation for entrance into business life....... Special stress is laid upon those subjects a knowledge of which is a necessity for business men, and the character of the instinction and the class methods adopted are specially suited for the end in view. The greatest emphasis is laid upon teaching the student to speak and write with fluency and accuracy, and to be able to apply a ready intelligence to practical business problems........ On the successful completion of the course a diploma is awarded." The object of this course is thus clearly twofold, (1) to enable the participating student "to apply a ready intelligence to practical business problems,"' and (2) "to lay special stress upon those subjects a knowledge of which is a necessity for business men."

It is in regard to one branch of such subjects that I desire in this paper to call special attention, and to advocate that the study of Commercial Law, and especially of that part of it which is included in the Law of Contract, should be made an integral factor in any scheme of education which is particularly directed to the production of thoroughly equipped business men.

It may, of course, be said with a good deal of truth that the actual necessary requirements for success in a business career are extremely small. Some time ago I asked a most successful business man of Montreal what (apart from special technical training) he regarded as essentials of business education. To the best of my recollection, he answered, "Reading (including the power of reading aloud); writing (including as a *sine qua non* the possession of a good hand); arithmetic (including the faculty of speedy and accurate computation); geography and Latin." [On this latter he laid particular stress, as a means of acquiring a good English style, and because he considered that its grammar led to the acquisition of an accurate habit of mind]. The list (even if I have omitted any essential, which I do not think is the case) is extremely small; but even so, it is certain that many of the most eminent business men have not possessed the advantage of anything like such an educational equipment.

The fact seems to be that the one absolutely necessary equipment for a successful business career is the possession of the business faculty combined with good bodily health. This is the real reason why, especially on this continent, such a preponderating proportion of the men who have been successful in every part of business life consists of those who in boyhood were brought up on farms, or, at least, had the advantages of some form of country life. Mr. J. D. Rockefeller (whose pre-eminent success in business no one can deny, whatever he may think of the particular methods which guide his career) in an address given a year or two ago, bore emphatic testimony to the value of a country training as a factor in a successful business life. In fact, if we might briefly epitomize Mr. Rockefeller's ideas of the kind of education desirable for the future business man, it would seem to lie in the mandate, "Bring up your boys on a farm." But even if we grant that aptitude and health are the two great desiderata, it is evident that even in the case of those who by nature and environment are specially fitted for business life a proper system of training must be some advantage; while in the case of those not thus specially endowed, such a system of training becomes still more important, seeing that it may make all the difference between at least comparative failure and comparative success. Now, a knowledge of commercial French or commercial geography may undoubtedly be extremely useful to a business man, but it is perfectly certain that hundreds of the greatest captains of industry, even in modern times, have achieved success without the knowledge of either of these desirable accomplishments. On the other hand some knowledge of the principles of commercial law, and especially of the law by which the validity of any particular form of contract is established, is absolutely necessary to a business man; and it is quite impossible for a man to attain any high position in any part of the business world without gradually acquiring a very considerable knowledge of the law governing the transactions of commerce. I have, for instance, seen it stated that there is no man in America who is more intimately acquainted with the law of (I think) guaranteeship than Mr. Rockefeller. The acquisition of some knowledge of the principles of commercial law is so vitally necessary that, as a matter of fact, every successful business man makes it a part of his daily duties to gather up fragments of knowledge as he goes. But such a haphazard and unreliable method of procedure is obviously unsafe, and it would clearly be an immense advantage if the business man could enter upon his career thoroughly equipped with at least the first principles of commercial law, rather than have to gradually acquire their knowledge by random and lengthy experience, and often at considerable cost to himself. There are two things which I imagine every high-principled young man will set before himself at the outset of his career: first of all, never to commit any fraudulent act himself, and, secondly, never to permit any fraudulent act to be committed against himself. So far as the first resolution is concerned, his own sense of rectitude is his great and only protection; but in regard to the second, it is clear that unless he has at the outset the aid of some systematic legal knowledge, he will constantly be exposed to peril. And not only will some knowledge of the main principles of commercial contract protect such an one against actual fraud, but it will be of enormous assistance in inculcating the maintenance of proper business habits as the one rule and safeguard of commercial life. It is, indeed, astonishing to what an extent business men are content to regulate their conduct on unbusinesslike principles. In their first dealings with strangers business men are generally extremely businesslike, and while taking nothing for granted, are very often inclined to insist on precautions which, perhaps, are not entirely necessary. But so soon as the stranger becomes an acquaintance, and the acquaintance after a few months' dealings is shown to possess a character of ordinary honesty and integrity, business principles are too often thrown to the wind, and engagements such as should only be ratified by writing, are undertaken on the pledge of a few minutes' hasty and imperfectly understood conversation, conversation which, perhaps, has taken place over so imperfect and (for this purpose) unreliable a medium as the telephone. When one thinks how frequently even a trained operator can mistake a number on the telephone, the danger of entering into a contract over the telephone in which figures are concerned must surely be manifest. Now, it is this almost universal tendency on the part of business men to substitute the principle of trust for the principle of business which a thorough knowledge of even the elements of contractual law would to a large extent eradicate. As an instance of this, let me cite the case of "Partnerships," which are so common in the business world, and in the establishment of which an extraordinary want of ordinary business prudence is so frequently displayed. This, however, is not the case in the legal profession (which is really a commercial profession in a specialized form), simply, I think, because the habit of legal training which lawyers naturally acquire has inculcated in them from the very outset the absolute necessity of conducting all affairs of this kind in a legal and businesslike way. An excellent example of the general fact is given in Benjamin Franklin's "Autobiography." "Partnerships often finish in quarrels; but I was happy in this, that mine were all carried on and ended amicably; *owing, I think, a good deal to the precaution of having very explicitly settled, in our articles, everything to be done by, or expected from, each partner, so that there was nothing to dispute*; which precaution I would therefore recommend to all who enter into partnerships; for, whatever esteem partners may have for, and confidence in, each other at the time of the contract, little jealousies and disgusts may arise, with ideas of inequality in the care and burden, business, etc., which are attended often with breach of friendship, and of the connection; perhaps with lawsuits and other disagreeable consequences."

In this connection I should like to know how many business men there are in the city of Montreal at the present time who could clearly state the main principles underlying the particular contract of "offer and acceptance." And yet ignorance on this point may not only lead to failure in gaining some particular object, for which the offeror imagined that he had contracted, but may further be the precursor of an unsatisfactory and expensive lawsuit. Again, how often are options granted in Canada, which (if they are committed to writing at all) are not worth the paper they are written on from a legal point of view? Or, how many business men are there who could draw a cheque so that it should be negotiable by the payee only, and by no other person? Yet most of these are matters of elementary law, and one might add of elementary business knowledge, and a very little training in the law of contract would enable the proper answer to be given. Yet it was ignorance of this elementary knowledge which, in the well-known case of Dickinson *vs.* Dodds, led the plaintiff, Dickinson, to plunge in a long and expensive lawsuit. On the 10th of June, 1874, he was handed by the defendant, Dodds, the following memorandum:

"I hereby agree to sell to Mr. George Dickinson the whole of the dwelling-houses, garden ground, stabling, and outbuildings thereto belonging situated at Croft, belonging to me, for the sum of £800. As witness my hand this 10th day of June, 1874.

£800. (Signed) John Dodds.

P.S.—This offer is to be left over until Friday, 9 o'clock a.m., (the twelfth) 12th June, 1874.

J. D. (Signed) John Dodds.

Now, it must be observed that both Dickinson and Dodds obviously believed they were doing things in a business-like way. The repetition of the date in figures (after it had been already explained in words) is, I think, a clear proof of this. Each probably thought he was a smart business man, and each parted from the other's presence thinking he had done a good stroke of business. Dickinson, in particular, as he walked away with the memorandum safely treasured in an inner pocket, no doubt congratulated himself on the valuable option which he had secured, and little dreamt of the load of litigation which he carried in his pocket. And yet, as a matter of fact, he had just perpetrated one of the most amazing pieces of folly which it is possible for a sane man to contrive. That brief memorandum of which he was so proud, was to cost him probably several pounds a word, before he had finished with the matter.

Nor had the other party to the transaction anything to congratulate himself on. In the first place it is clear that his intention at the time was to give Dickinson a two days' option, and that (apart from legal considerations) he was destined to repudiate the memorandum he had given, which could hardly be considered satisfactory. Secondly, even though from a legal point of view that repudiation was to be upheld, he, too, was to undergo the worry and anxiety of a lengthy suit, with at least the disbursement of the inevitable costs which even a successful suitor must expect. What subsequently happened was this. Next day (on the 11th of June) Dodds sold the property to a third party, and Dickinson on hearing of the sale at once gave notice to Dodds (before the time specified in the memorandum) that he accepted the offer to sell therein contained. An expensive lawsuit was the result, which was only terminated in the Court of Appeal in Dodds' favour. As a matter of fact there was no "consideration" for Dodds' agreement to let the matter stand over for two days. The practical effect of Dodds' memorandum was to give Dickinson a two days' option to purchase his (Dodds') property without any corresponding equivalent for the delay. If Dickinson had understood the elementary principles of this part of the Law of Contract, he would have given some actual "consideration" for the two days' option, for which a sum of five or ten shillings would have been quite reasonable. In that case Dodds could not have gone behind the contract, because he would have received actual value for the two days' extension of time. A similar striking instance of the necessity for business-like habits in the conduct of business is afforded by another elementary case taken from the annals of the Law of Contract, namely, the

Ramsgate Hotel Company *vs.* Montefiore. The company had been formed for the purpose of conducting a suitable hotel at a well-known watering place. Montefiore, thinking that the venture was likely to be a success determined to apply for shares. Accordingly, on the 28th of June he wrote a letter offering to purchase certain shares in the company; but, notwithstanding the offer contained in his letter the directors of the company did not take the trouble to reply, though, as a matter of fact, they were desirous of obtaining capital for their scheme. Nearly five months, in fact, elapsed before they thought of communicating directly with Montefiore. Then, on the 23rd of November, a letter was at last written to him stating that the shares for which he had applied had been allotted to him. But it so happened that at the end of November Montefiore had no longer any wish to venture money in this particular company; and he accordingly declined to admit the contract to which the directors desired to bind him. Eventually the matter went to the law courts, and it was held that owing to the unreasonable delay displayed by the officers of the plaintiff company, the offer of the defendant had lapsed, and that he was not compelled to take the shares. In this decision the principles of morality and law clearly agree. It would be monstrous if a man were to be held bound for an indefinite period to an offer which he had made at a particular time. One, who in the preceding June might have ample funds at his disposal, might in November, owing to the tightness of the money market, unexpected calls, or, indeed, for numerous unforeseen reasons, be in no position to suddenly answer a call for a payment for which he was not prepared. Can anything be imagined more unbusinesslike than the conduct of the business men who represented this particular hotel company? Is it not perfectly certain that they must have been, one and all, completely ignorant of the first principle which governs the Law of Contract?

And this is only one of hundreds of similar cases which might be cited. It is hardly, indeed, an exaggeration to say that nine-tenths of the leading cases discussed in any treatise dealing with contract have their origin in the ignorance of elementary contractual principles displayed by business men.

And this deficiency is even more striking in the case of what is pre-eminently *the* business profession, namely, the profession of banking. Seeing that cheques and bills of exchange form so great a part of the business transactions with which any bank is connected, it would seem *a priori* the most natural and reasonable thing in the world that every clerk should be expected to know the local Bills of Exchange Act, if not by heart, at least so accurately as to be in a position to rapidly apply its main provisions to any particular question that might arise in the course of banking business. I wonder how many bank clerks there are in Canada who have really mastered the various sections of the Bills of Exchange Act in vogue in their particular province. Some years ago, when in conversation with the local manager of a bank in one of our Eastern cities, I was greatly surprised to find that he was completely ignorant of the law in regard to crossing cheques with the words "Not negotiable." Yet he was obviously a man of extreme ability, whose business acumen was conspicuous even on a first acquaintance. And if in such a case there could be complete ignorance on a point of law so vitally affecting banking interests, what must be the case so far as the rank and file are concerned?

I submit then from this and similar considerations, that if there is any study which can be regarded as essential in the education of those who are destined for a business career, it is the study of commercial law, and especially of the Law of Contract. This fact is beginning to be recognized, though I hardly think that sufficient weight is attached to it. I have already mentioned the Commercial Course instituted at McGill. A reference to the Calendar will show that "the subjects of the course are as follows":

FIRST YEAR.

1. English.
2. History.
3. Mathematics (including commercial arithmetic).
4. French (including commercial French).
5. Physics.

SECOND YEAR.

1. English and History.
2. French.
3. Commercial Geography: Descriptive Economics.
4. Physical Geography.
5. Chemistry.
6. Accountancy.

These subjects are given in the same tabulated form as above, and it will be noted that so far nothing whatever has been said on the subject of Commercial Law. A footnote, however, is added (under the heading of "History"), which is to the following effect: "By special arrangement with the Dean of the Faculty of Law, students will have the opportunity of studying in this connection, an outline of the operation of Canadian Government, federal, provincial, and municipal. They will also have their attention directed to questions of everyday law, especially such as are likely to be met with in business practice."

It will be seen that in the curriculum here proposed, the claims of commercial law are admitted, but I am bound to add that they appear to me to be admitted in somewhat grudging fashion, and not with the readiness which the importance of the subject should really warrant. With all due deference the criticism may be offered that far from being relegated to a mere note under the heading of "history," commercial law should have its importance recognized by being placed on at least an equal footing with the subjects which occupy so prominent a position in the table given above.

To suggest, for instance, that in reference to a business career the study of Economics should be regarded as more important than the study of the Law of Contract appears to me hardly warranted by the actual facts of daily experience. A man may be a first-rate authority on abstract questions of Political Economy and yet a very indifferent man of business. Similarly, a most successful business man may have no accurate knowledge whatsoever of Political Economy. I submit that in any scheme so scientifically framed as to place each subject in such a course in the order of its actual and practical value, the study of the Law of Contract would certainly take a much higher place, and would not come lower than third or fourth on the list. Again, it seems to me undoubted that in the case of a two years' course some study of the Law of Contract should be included in each year. When I ask that some time should be given, I do not by any means imply that a large number of hours should be taken from the present time table and set apart for the study of law. One lecture a week during the first year would probably be quite enough if accompanied with the provision that some short but intelligible text-book should be read simultaneously by the students, so that they might come to master at least one book to which they could always recur in moments of perplexity in future years. Even a course of weekly lectures, continued for only one year, if combined with the proper home study of a good manual on the Law of Contract, would put the students who had undertaken the course in a totally different position in regard to the knowledge of commercial law. If, for instance, the text-book selected were Anson's (which is an admirable work, though, perhaps, a little too lengthy for such a purpose), those who had passed in this course would (1) never in future be without the means of readily solving any ordinary question coming within the Law of Contract, and (2) would have had their minds trained to such an extent in the nature and process of commercial law, that almost by instinct they would be led to adopt (in any particular matter) the course of prudence and safety.

So much may be said then on the practical side of the case. But, especially in the case of the business training which is connected with an University career, there is another point to be considered. The general object of university education is, it has been stated, to "teach men how to think." This factor is directly realized in the words which I have already quoted, namely, that one object of the course is to teach the student "to apply a ready intelligence to practical business problems." It is in this connection that I would suggest that the study of the Law of Contract should be pursued in the second year of a Commercial Course. In the first year let the elements of contract be made intelligible to the student by means of a few lectures and the thorough acquirement of some easy text-book dealing with first principles. [By thorough acquirement I mean such a real mastery as should enable each student to pass a good examination on the book, and obtain not less than, say, 60 per cent. out of a total of 100. The text-book selected should, if possible, be brief, but it should contain an accurate and broad statement of general principles]. With the foundations thus laid, the study of Contractual Law might in the second year be made a means of the highest mental training. There are numbers of individual cases in the Law of Contract which would repay the most careful and minute study, because their decision rests upon first principles of the highest importance. Such cases as these have been elucidated by judges of pre-eminent intellectual calibre, many of whom before entering on the study of law have shown the most brilliant capacity in the Higher Mathematics or in the Study of the Classics. This is especially true of cases which have involved important decisions in regard to the foundations of business law. Take, for instance, such a case as the Maxim-Nordenfelt Co. *vs.* Nordenfelt. The question involved was of supreme import to the whole commercial world, namely, within what limits, if any, "restraint of trade" was permissible. All the most eminent judges in England expressed their opinion on the case, for not only was it taken to the Court of Appeal, where Lord Justice Bowen delivered a long and elaborate judgment, but it was only finally settled by the House of Lords. To master all the arguments delivered on both sides; to compare the divergent judgments of the judges in the different courts, and to endeavour after a long study of such a case to comprehend on what grounds the final judgment was given, is a task that involves the most accurate, sustained, and concentrated thought. It is to unravel, however imperfectly, the mental processes pursued by some of the most brilliant scholars and subtle logicians that the English Bar has been able to produce. Take, for instance, Lord Justice Bowen's judgment delivered in this case in the Court of Appeal. Lord Bowen was not only a consummate lawyer, but a man of the most profound and delicate classical scholarship. In the brief hours of leisure snatched from an absorbing profession, he found time to produce a translation of the Æneid which is by common consent a lasting testimony to his powers. The judgment he delivered is not only then the work of a highly-trained and most able jurist, but in its style and diction alike is manifestly the production of a refined and scholarly mind. The same remark applies almost equally to several of the judgments delivered in the House of Lords, where the question was finally settled.

Thus, in submitting that the Law of Contract should form an integral part of any specialized commercial education I base my contention on two grounds: First, that there is no study which is likely to prove of more practical value to the business man; and, secondly, that the thorough mastery of individual cases, is itself calculated to supply the most admirable mental training.

R. E. MACNAGHTEN.

THE WAR OF TRADE.

> **"The war that I fear is not a military war......The war I "regard with apprehension is the War of Trade which is unmistakably upon us."—(Lord Rosebery.)**

THE above is an extract from an address delivered by Lord Rosebery before the Wolverhampton Chamber of Commerce in January, 1901. Nearly seven years have since passed rapidly by,* six of which have witnessed a struggle for supremacy in trade so universal, so stern and so tumultuous, that its equal cannot be found in all the records of history. The seventh, and present, year of grace, 1907, has experienced the first lull in the relentless campaign; for nations, and corporations, and individuals cease to trade (whether in money or in merchandize) as freely or as aggressively in the face of a widespread dearth of borrowable capital and a severely restricted credit, just as troops, heated in action, cease rapid and reckless firing on the grim caution that the ammunition has all but given out.

Hence, the present seems to be an opportune season—with the vast financial and commercial world "marking time," as it were—to enquire, firstly, as to the course of events which led up to this stupendous struggle for supremacy in trade, and, secondly, to notice the striking ascendancy of trade to-day over both our graver and lighter affairs and interests. For do not the behests of this same *Trade* dominate and override all else? A fiercely debated measure involving an unpopular tariff reform would, now-a-days, if persisted in, be sufficient to overthrow a ministry. The paramount consideration in all foreign diplomatic relations to-day is the promotion and protection of commerce,— that *Commerce* which binds nations together to their mutual advantage, or, on the other hand, which holds them asunder, brooding in rivalry.

It is not proposed that this very brief paper should take the form of a statistical treatise full of comparative figures and tables gleaned from government blue books and government white books, or domestic or foreign boards of trade returns.

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* **August, 1907.**

We shall not, therefore, trouble to consider the tonnage of ocean-going shipping entered at the ports of, say, Hamburg and Hong-Kong during the past twelve months as compared with the tonnage of the year previous to that period. Neither shall we refer to the amount of Siberian butter annually dumped in the London produce market; nor quote figures relative to the great tea trade of the East, nor of cattle and wheat shipments from the Republic of Argentine. In short, while the now carefully compiled and infinitely exhaustive Trade Returns of the great commercial countries tell, indeed, a story of marvellous progress, to do them even scant justice would necessitate a series of such articles as the present.

To return to the *War* of Trade! What was the course of events which led up to this great world-conflict? What were its initial stages?

I.

To arrive at the beginnings of this now all-absorbing struggle, it is necessary to revert some forty years in international commercial history.

Let us glance, in the first place, at the dominant country in our Western Hemisphere,— the United States of America.

The close of the sanguinary war between the North and the South (which left the latter bereft of everything but her indomitable spirit) saw the United States, as a whole, make the first serious start in her phenomenal career as a great commercial and industrial country. Her natural resources began to undergo systematic and vigorous development; her industries, soon outgrowing even the rapidly increasing domestic demands, were compelled to seek outlet in foreign, and hitherto untried, markets. Out over her vast western prairie lands the Red man retired doggedly before the vanguard of thousands of stout-hearted settlers.

Secondly. Concurrently with the above events, Germany inaugurated a new era in Europe by declaring that, in future, she would manufacture within her own borders the many articles indispensable to her progress and heretofore purchased abroad. Up to that time she had been an almost entirely agricultural country, exporting agricultural produce. Thanks, however, to a perfected system of education, to the superb patriotism of her people (*Socialistic tendencies notwithstanding), and to the fostering care of a paternal government, lavish with subsidies and ambitious for the material advancement of the Fatherland, Germany finds herself to-day the third great trading nation of the world, with industrial exports holding their own in every known market.

Now, with the American, strenuous, versatile and inventive, setting the pace, and with the new German, painstaking, industrious and highly scientific in *everything,* as a good second, it was but a natural sequence that the honorable and long established firm of John Bull & Co., with agencies and ramifications throughout the world, should, before the lapse of many years, have felt keenly the onslaught at home and abroad of this new and very aggressive competition. For some centuries the proud proprietor of the world's storehouses and workshops, Great Britain had watched with little apparent concern the setting up of rival foundries, factories, and shipbuilding yards by the deliberate German and the energetic American. Her rivals in the "glorious past" had been fought almost continuously, and usually with success, in many lands and on the high seas,— the gallant Frenchman, the haughty Spaniard, the wily Portuguese and the doughty Dutchman,— to say nothing of pirates of all nations. Her frigates-of-the-line had, for generations, policed and kept open to commerce the great trade routes of the world. But now it became evident that a new order of things had set in, bringing in its train a mighty struggle the goal of which was nothing less than the wresting from her of the supremacy of the world's trade,— a struggle in which line-of-battle ships and armed landing parties were of no avail. The British people being by nature non-effervescent in temperament, cautious where established principles are involved and disinclined to action without mature consideration, some years were allowed to elapse before it brought itself to the open acknowledgment that it was being worsted in the new War of Trade. But, with the avowal, came also the determination to up and arm with the same weapons as were being used so effectively by its rivals, namely, the weapons of improved machinery, of advanced technical education, of lively solicitation for business, of enterprising exploitation of new markets, of condescension to cater for the requirements of clients,— of the adoption of up-to-date methods generally. Indeed, it may be said that the only legitimate weapon of importance of which Great Britain has not, as yet, availed herself is that of the Protective Tariff. [The polemic question of "Free Trade — or Protection?" is one that is yet far from being settled in England. It seems remarkable to us, living as we do in Canada behind the shelter of a tariff wall, that Great Britain should so long hesitate whether or no she should abandon the former, and now-a-days discredited, policy of Free Trade, a policy which imposes a severe handicap on her own home industries and agriculture to the benefit of her foreign trade rivals.]

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*It should not be forgotten that it is to the credit of the powerful Social Democratic party in Germany that that country and the industrial world in general are indebted for the successful solution of such questions as the housing of the labouring classes, old age pensions and workmen's insurance.

Here, then, we have three of the leading factors, or factions, in the world's War of Trade,— Great Britain, the United States of America, Germany. Add to these the following countries, each with its proportionately large and flourishing foreign trade,—France, Russia, Austria, Italy, Switzerland, the Netherlands, Scandinavia and Denmark; India, Canada, Australia, New Zealand and South Africa; Mexico and Cuba; a modernized Egypt, a new Japan, an awakening China. Such are the chief among the many conflicting and tremendous forces, which, in opposition, form the maëlstrom of international competitive commerce! And we must not forget to take into account the *prospective* competition of a future Siberia, a Tibet and a Central Africa; of a Northern Canada and a South America,—the whole well exploited, developed, and opened to general traffic and trade!

II.

In the second division of this brief paper let us consider the present remarkable ascendancy of Trade over all our graver and lighter affairs and interests.

The latter-day apotheosis of Trade, or, perhaps, we should say with Mr. Carnegie, the expansion of the "Empire of Business," has produced a marked effect upon peoples of all nations,— on their foreign as on their domestic politics; on their ideas and actions, individual and collective. A wide-awake spirit of commercialism (using the word in its best sense) has invaded every grade of society. The time was, for example, in our own Mother Country when any person engaged in trade,— the merchant, the shipowner or the manufacturer — was regarded as a *persona non grata* in the eyes of the non-commercial classes of the country. Times have changed, however, and the successful man of business is no longer cold-shouldered by reason of his wealth having been acquired by engagement in trade. Witness the numerous additions to the British peerage from the ranks of purely business men during the past twenty years, which fact accounts largely for the many financial and commercial undertakings in Great Britain and the Colonies now under the able direction of gentlemen of title. (The latter, however, should not be confounded with the typical figure-head "guinea pig" director.) This is but one evidence of the radical change in ideas.

The demand is ever growing for what is commonly called a "*practical* education," that is to say, an education such as will fit young men (and young women) for a business career. Hence, one observes educational establishments of all grades the world over passing through a critical period of transformation. The hand of reform has been brought to deal with the task of dividing (with a view to elimination) the unnecessary that is to be found in their respective curriculums of study, from instruction in those subjects which may be put to future profitable use in the various spheres and activities of modern life. One sees the so-called dead languages being banished without compunction in favour of the four principal languages of modern commerce.* Business correspondence, book-keeping, commercial geography, commercial mathematics, and even stenography are some of the innovations demanded to-day in a general school curriculum. Further, it is worthy of note that a diploma of a Chamber of Commerce (say, of that of the City of London) is now considered of more practical value than a degree of the proudest university.

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* Certain colleges in Germany and Japan have just decided that the study of English shall, in future, be compulsory instead of voluntary, as heretofore.

Nothing, indeed, more forcibly evidences the trend of the times than the rapidly increasing number of technical schools and institutes that are being established throughout both the continents of Europe and America. These important institutions, with their numerous lecture-rooms, laboratories and workshops, are the outcome of the not mistaken conviction that the most potent factor that makes for success in the industrial and commercial career is thoroughness of technical education and training. This is especially true since the system of indenture of apprenticeship has virtually become a dead letter,—thanks, in the United States, at all events, to the action of trade unions.

How frequently one hears the expression that such-and-such a thing is "good for trade." The kaleidoscopic vagaries of Fashion, in whatever direction, are "good for trade,"—whether they affect our dress or our habits, our public or our private entertainments and amusements, or our serious occupations. A considerable portion of the world rejoices when Fashion, for instance, prescribes some new form of recreation, not from the physiologist's point of view, but solely because it is "good for trade." In older countries than this where are leisured people in plenty, change of fashion in forms of sport and recreation is a material consideration, the livelihood of so many being practically dependent upon it. In England we find, following each other in rapid succession, as decreed by fashion, such recreations as deep-sea yachting, coaching, archery, organized mountain climbing or extended walking tours, rifle shooting (at butts), historical pageantry (if this may be classed as a recreation), motoring. Already the last-mentioned is being somewhat eclipsed in ultra-fashionable circles in both England and France by the more novel, more exciting and even more costly amusement of ballooning. But they are, one and all, "good for trade!"

Again, every year now brings with it its Exhibitions, or Expositions, with almost tiring regularity. But we continue to welcome them. Do they not justify themselves in that they are "good for trade"?

We have said that the apotheosis of Trade has produced a marked effect upon both the ideas and actions of peoples, individual and collective. As a further and familiar illustration of this statement, take that which must have been noticeable to all,— I refer to the present tendency of ordinary everyday conversation.

Men and women to-day do not commonly converse as did our grandparents (who enjoyed a more leisurely and a less material atmosphere and environment), to wit, of the cultivation of the tea rose, of the "Maréchal Neil," or the "Gloire de Dijon"; of the rotation of the planets as morning and evening stars, following the Almanac; of the buried antiquities of Babylon; of the diverting adventures of Mr. Pickwick; of the coming season's fashion in the quadrille or cotillion; of the "Lady Macbeth" of the incomparable Mrs. Siddons; of the political vicissitudes of Peel, or Russell, or Palmerston,— and so on throughout a very wide diversity of subjects, grave and gay, abstruse and simple. No. Present day conversation indicates in a startling manner the universal ascendancy of *Business* over the minds and interests of us all. We talk at most times and in all places in the language of the exchange and the counting-house; of the market-place and the workshop. We speak gravely of pitiless modern competition (of the latest phase in the great War of Trade); we discuss off-hand the merits and demerits of customs tariffs in general; speculate on the effect of a break in the stock market; hold forth on the responsibilities of boards of directors to their respective shareholders; debate on the good or evil of investigation and publicity. We enumerate the causes of monetary stringency, and talk glibly of over-expansion and prodigal extravagance, of curtailment, depression and "hard times." Crop reports, mendacious and conflicting, are closely followed, and we evince a deep interest in such matters as artificial land values, the illicit rebates of the railroads, the "foreign" loans of our banks, and the "open shop" of the manufacturer!

So is waged all around us the War of Trade, by honest methods generally, by dishonest methods frequently. The daily papers, the periodical reviews and trade press are full of it; it is the common talk,— price cutting, rate cutting, estimate cutting, tender cutting; bonus giving, "rake-off" getting, rebate granting,— what class of business, or even of professional practice, is free from it? Any means are moral ("etiquette" being out of date) in order to secure, or to snatch, custom and patronage from under the hand of a brother trader, a brother broker or a brother banker. And the small man goes to the wall to make room for the big man!

What will be the leading features, and who the principal actors, in this the greatest of international struggles — the "War of Trade"—in, say, fifty years time?—in *twenty* years time?

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The Royal Bank of Canada,
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CANADA'S GAIN BY IMMIGRATION.

IN recent years immigration has been a matter of no little general concern in Canada. We have been competing at some disadvantage with the United States for the stream of emigrants from the more or less overcrowded countries of Europe. At last Canada has succeeded in drawing to herself a substantial, and a rapidly increasing, portion of this stream. Relatively, the immigration to Canada in each of the years of this century has been greater than to the United States, although the numbers arriving in that country have lately mounted to altogether unprecedented heights. By this statement, I mean that the proportion of newcomers to the existing population has been greater here than there. Even the enormous figure of United States immigration last year, about 1,285,000, represents only about 1½ per cent. of the population of the continental United States, and this figure represents the greatest proportion for over half a century. As compared with this, our immigration, rising from nearly 2½ per cent. in 1903 to over 4 per cent. in the last twelve months, is certainly a remarkable evidence of Canada's popularity. But the contemplation of such figures suggests some serious problems to the thinking citizens of the Dominion. To some of them reference will be made later in this paper. But, first, it may be as well to look a little more closely at the magnitude of the addition to population which we are securing.

If we look back at the records of the comparatively recent past, we find that, in the interval between the census-enumerations of 1881 and 1891, the record of immigrants, stated to be coming to settle in Canada, showed an average of 2 per cent. of the population of the Dominion for each year of the decade. This, though smaller than the figure for the years since the latest census, is larger than any single year of the last seventy, at least, has given for immigrants into the States. Yet there is no doubt that the growth by immigration into the States was, at that time, much more rapid than in Canada.

Though the matter has been discussed often enough, it is worth while to look at some of the facts again, so that we may not be led to expect too much from the existing conditions, or may see if there be sufficient reason to look for other consequences now than those that followed at that time.

First, let us note some of the recorded facts for the United States. The annexed table sets forth certain of the official data, which may be studied.

CONTINENTAL UNITED STATES—POPULATION AND IMMIGRATION

Date	Population		Increase of Foreign Born in decade.	Immigration in decade.	Per Cent of Population.	
	Total.	Foreign Born.			Foreign Born.	Immigration per year
1850	23,191,876	2,244,602	....	....	9.7	......
1860	31,443,321	4,138,697	1,894,095	2,598,214	13.2	0.9
1870	38,558,371	5,567,229	1,428,532	2,314,824	14.4	0.7
1880	50,155,783	6,679,943	1,112,714	2,812,191	13.3	0.6
1890	62,622,250	9,249,547	2,569,604	5,246,613	14.8	0.9
1900	75,693,734	10,341,276	1,091,729	3,687,564	13.7	0.5

This table shows, for one thing, how modest, in comparison with Canadian records for the eighties, the average yearly immigration into the United States was. The seven years since the date at which the table ends have witnessed an immigration greater in the aggregate than the entire decade 1881-90, by about a million. Yet the proportion to population will not be as great as at that time, since the average population may probably be taken at eighty millions at the least.

A second point which appears is, that the increase of foreign-born lags far behind the immigration. This need not be put aside as evidence of inaccurate returns in the census, or in the immigration records, or both. For one thing, death is at work to diminish the number of foreign-born residents. It is difficult to estimate how great the effects of this may be. We need to remember that the new arrivals include a much smaller proportion of children than the resident population, and that the death-rate is very high among very young children, as compared with that for persons in the prime of life.

Consequently, the average death-rate among the foreign-born should be substantially less than in the general population, except in so far as inferior physique among them, or conditions of life unfavourable to longevity, may provide some counter-effect. If death accounted for the difference between the immigration of a decade and the increase in number of the foreign-born residents, the death-rate among the foreign-born would have exceeded 33 per thousand per annum in the eighties, and 26 in the nineties.

Such figures are incredible, and they throw us back on another set of facts for a satisfactory explanation, in part if not completely covering the ground. We find that the movement of migration is not simply a movement in one direction. There are currents and counter-currents. A stream of outgoing passengers offsets in some degree the stream inwards. The data on which we have to work are not quite comparable, but we may note that, roughly speaking, the returning citizens, and non-immigrant arrivals, about balance the cabin passengers outwards in numbers. For a rough comparison, which is all that we can venture upon with the data at command, we may take the non-cabin passengers outward as representing a band of returning immigrants, departing not to return, or to appear again as *alien* arrivals at a later date. This return stream represented about 20 per cent. of the alien immigration in the eighties, it increased to fully 40 per cent. in the nineties, and has been about 30 per cent. in the twentieth century to date. These figures, which cannot be taken with any great precision, yet suffice to show that the apparent accretion to the population by immigration is substantially reduced by a return current. In the last month or two this return stream has been especially conspicuous, both in Canada and the States. It cannot be left out of account in any estimate of what we are adding to our numbers by immigration.

This consideration of what is brought to our notice by the facts set forth as to our neighbours may aid us in understanding the meaning of our own data, for they need explanation, and the explanation is not readily suggested by looking at them alone. Taking the record of the three latest census enumerations for the entire Dominion, the following figures are afforded:

GROWTH OF POPULATION OF CANADA

Year.	Ontario and East		Manitoba and West		Canada	
	Total Population	Foreign born	Total Population	Foreign born	Total Population	Foreign born
1881	4,152,951	575,294	171,859	34,024	4,324,810	609,318
1891	4,483,593	542,681	349.646	104,681	4,833,239	647,362
1901	4,725,798	459,465	645,517	240,035	5,371,315	699,500

Among the foreign-born in this table have been included those born at sea, or whose birth-place is not known, as this course seems the simplest and least open to objection. The numbers are not in any case considerable and cannot seriously affect the conclusions suggested by the table.

It will be seen that the proportion borne by the foreign-born population to the total does not differ substantially from that found in the United States. It has been at the three dates named, 15.1, 13.4 and 13.0 per cent. respectively. Thus, so far as relative numbers go, the problem of assimilating the newcomers is somewhat less serious than in the neighbouring republic. When we note, further, that the non-native population is to a large extent British-born, the matter becomes even less serious. It is true that newcomers to Canada, even if British by birth, need a good deal of adjustment to Canadian conditions before they become thoroughly assimilated into our nationality, but at any rate they are not strangers to free institutions, and present a political problem far less serious than that presented by the immigrants from southern and eastern Europe into the United States, or into Canada itself for that matter. The non-British among the foreign-born numbered 131,083 in 1881, 157,130 in 1891, and 293,617 in 1901.* Thus the problem of the assimilation of foreign elements into our society is one rapidly growing in importance, and the additions made by the immigration of the last few years will have affected this feature in an especial degree, in all probability. If we regard the West by itself, we note a very rapid increase in the proportion of persons born outside Canada. From 20 per cent. of the population in 1881, they increased to 30 per cent. in 1891, and to nearly 40 per cent. in 1901. Of these, about 12 per cent., more or less, were non-British at each of the first two dates, but this proportion had doubled in 1901, so that the ratio of non-Canadian British to the population fell in the course of the last ten years of the nineteenth century.

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* It should not be overlooked, in this connection, that, of the foreign-born who are not British, between 40 and 50 per cent. are recorded as born in the United States. The incorporation of these into the Canadian nation presents, in all probability, much less difficulty than the like problem in the case of other aliens.

If we examine the figures of the last table, it will be seen that the evidence of a large immigration which they present is remarkably feeble. Where, for example, are the 900,000 or thereabouts of immigrants who came to settle in Canada in the eighties? We find an increase in foreign-born of 38,000, and the deaths among the foreigners can hardly have been sufficient to render an account of 150,000 of new arrivals in the decade. Not more than one in six, or, admitting a high death-rate, say, one in five, of the arrivals are found as additions to our population. The census of 1901 found 142,000 survivals from the immigration of the eighties, which would be in agreement with a permanent settlement of between 160,000 and 180,000 in those years, or less than the one in five of the recorded settlement just alluded to.

And, if we turn to the figures of the native-born population, there are still some remarkable features. The growth in the eighties was 470,000, in the nineties 486,000, or, in the former case 10½ per cent., in the latter 9½ per cent. of the average population. This is almost certainly a long way below the natural increase; if not, our natural increase lags far behind that of the countries from which we have sought to draw our immigrants. England itself shows a greater increase than this. And among a population receiving a steady stream of recruits in the most fruitful period of life, one expects a higher rate of natural increase than in a population which is throwing off a part of its increase, and that part one which, judged by age, would have had an important influence on the birth-rate.

It is clear, then, that Canada has in the past not retained the immigrants who were recorded as coming to settle, and that some part of her native-born population has wandered away from her. Why repeat such familiar facts, it may be asked? Partly because we must not lose sight of any of the influences which are important if we would estimate aright the net outcome of the movements now taking place. Though the tide has turned in Canada's favour, it would be well not to exaggerate the rapidity of growth which we are experiencing. We may save ourselves some disappointment if we take a sober view of the situation.

It will be observed that our table shows that, whether by the transfer west of earlier arrivals, and their replacement by newcomers, or by the direct movement of these newcomers to the West, the foreign-born in the East have decreased, though probably not as much as the deaths among them would have caused had they not been recruited from outside. The West, on the other hand, has grown both by receiving foreigners, by migration of the Canadian-born from the East, and by its own natural increase. About one-half of the addition to our foreign-born population in the eighties, as estimated a couple of paragraphs back, is accounted for by the western growth. There has been, too, a large movement from Eastern Canada, the figures of the census being such as to require about 70,000 to enter the West from the East in each of the two decades covered by the table given above. But it is clear that the figures cannot be taken as at all closely accurate, since the record of residents in the West, born in the West, shows an increase of 40 per cent. in the eighties, and about 57 per cent. in the nineties. Whether the source of error is to be sought in the recording of foreign-born as native-born as their residence in the country is prolonged, or in mistakes as to the part of Canada in which the native-born are said to have been born, is impossible to tell. So much we can safely say, that the slow growth of the Maritime Provinces and Ontario is partly due—in the latter case especially—to a movement of their population into the Canadian West, though there remains a large movement into the United States to be taken account of, a movement of especial importance in relation to the Maritime Provinces.

Before passing to the next point, it may be remarked that the census data suggest, for the decade 1891-1900, a retained immigration of foreigners amounting in the aggregate to about 160,000 to 170,000. The returns as to the dates of arrival of the foreign-born found in Canada at the date of the census show not less than 60,000 more than this as surviving from the immigration of the decade. The discrepancy is serious. For the nineties, we have no complete statement of arrivals. The imperfect record of immigration does not present, in this case, a problem similar to that considered for the eighties. But either by error in the records, or by an unrecorded movement, of foreigners enumerated here in 1891, out of the Dominion in the course of the nineties, we need an explanation. The confusion of foreigners declaring themselves natives will not adequately account for the data supplied. That merely raises a problem of emigration of natives in place of an emigration of foreigners formerly resident here.

We have noted the return current to Europe, and its conspicuousness this year. But to account for the figures cited in regard to the interval 1881-90, a return current equal to that found from the United States would be insufficient. To reconcile, even approximately, all the data, we must conclude that, in addition to the large immigration recorded by the officers of the United States, which reached nearly 393,000 from Canada and Newfoundland in 1881-90, there has been a further large unrecorded movement resulting in a loss of population. The recorded movement between the two countries has turned in Canada's favour of late. Can we safely conclude that a similar change has occurred in the unrecorded movement? Any estimate of the rate of growth of our population must be subject to very great error so long as no sufficient degree of certainty on this point can be reached. When we consider how, in the past, officials have striven to justify the records of the growth by immigration, and how, time after time, the cold facts of the census have proved their estimates ill-founded, it seems the part of wisdom not to let our imaginations run riot over the additions to our numbers. It certainly looks as if there is more in the present movement than in any of those of the past. But who shall say that our successors—

or we, ourselves—will not be compelled to acknowledge that the facts have not come up to our confident expectations, even as has had to be done in reference to the events of the not distant past.

We have, however, some definite assurance on the subject of our growth in the results of the census of Manitoba, Saskatchewan and Alberta in 1906. These show a growth of the aggregate population of the three provinces, from 419,512 in 1901 to 808,863 in 1906. In Manitoba the growth of the five years has been rather over 40 per cent.; in the new provinces, 170 per cent. The growth in this part of the Dominion, as shown in previous censuses, has been very rapid, but the acceleration which the record of immigration rendered practically certain is confirmed by the census enumeration. It must be noted, however, that the increase does not account for sixty per cent. of the recorded immigration, so that, unless the older provinces have also taken on a development in numbers, quite contrasted with the record of the preceding twenty years, the return current to which allusion has been made will need to have operated in exceptional strength, and the natural increase will still have to be reckoned with. Actually, the growth in the West has been contributed to in large measure by migration of Canadians from the East, whose places may have been filled either by the newly arrived or by the natural increase of the Eastern population. It would be premature to assume the cessation of the unseen drains which have been so notable a feature of the past.

But there are other, and, in certain respects, more important questions connected with immigration than its effect on the numbers of the population. One of these finds its expression in the record of the distribution of the population between urban and rural districts. The Western centres of 1906 showed an increase of urban population from 94,000 to 200,000. The increase of the proportion to the whole population is not very great, but it is noteworthy that, in the most characteristically agricultural population in the Dominion, where the new developments are so largely agricultural, the proportion of urban population grows. These figures, however, like those given in the 1901 census reports, include among urban populations villages with but two or three hundred inhabitants. For comparison with earlier censuses, the places with fewer than 1,500 inhabitants have been separated from the rest, and the designation "urban" in what follows is applied only to the larger aggregates. We find that, approximately, there were 680,000 persons living in places of at least 1,500 inhabitants in 1871. In 1881 this number had increased to about 910,000. By 1891 the figure had further grown to about 1,350,000, and in 1901 it reached to over 1,750,000. Of the increase of numbers in the eighties, in all 508,429, no less than 440,000 appear to be found in places of over 1,500 inhabitants in 1891; and of the 538,076 by which the population grew in the nineties, about 400,000 appear to be found in places of this size in 1901. We must, of course, take account of the fact that some part of the apparent growth of urban population is due to the transference of places from the non-urban to the urban group, with no great change in the population. But the effect is not of sufficient magnitude to destroy the force of the comparisons given, as demonstrating an exceptional growth in the urban centres. This may be seen by comparing the places with 5,000 or more inhabitants in 1901 with themselves at earlier periods. The aggregate population of these 62 places had increased in twenty years by 683,000, while the entire population of the Dominion increased by only 1,046,000 in the same interval of time. Nearly two-thirds of the new population was thus gathered in the places which had passed the 5,000 mark in 1901. Taking this fact together with the preceding, we cannot but be struck by the modest growth of the really rural population. Unless we can grow, not only in the cities, but in the country as well, it is of little use to talk of Canada becoming, in a few years, the chief source of the food supply of the British Isles. Since 1901, the distribution of our increase of population appears to have been more healthy, that is to say, more healthy in view of the nature of the real and readily accessible sources of wealth of our country.

But how does it come about that, with such great agricultural resources, not to speak of fishing and mining, the people of Canada follow the example of the people of the Old World, where land is scarce, and the rural labourer has little hope of becoming an independent proprietor? In part, it may be suggested, it is due to the character of our immigrant population. That population consists in large measure of people used to town life, and either not desirous of going on the land, or not possessed of the knowledge, training or character which would ensure them success as agriculturists. The official report on the immigration of 1905-6 shows that, of those entering through ocean ports in that year, only just over one-third were agriculturists or miners. General labourers, mechanics and clerks accounted for over 60 per cent. of those scheduled as settlers. Now, though some of these may make a successful venture as farmers, their tendency is necessarily to seek some town occupation, and preferably in one of the larger towns. Hence the undue growth of these centres in comparison with the country at large. How much influence in the direction of the fostering of urban industries by means of bonuses, tax exemptions, tariffs or bounties may be exerted as a consequence of this selective growth of cities, cannot be measured, though it may be surmised that it is not unimportant. At the moment of writing, the industrial situation being rendered acute as a result of financial disturbance, the presence of these newcomers to our towns is felt in an exceptional degree. It is to be hoped that the distress which seems certain in the winter before us may not lead to the inauguration of new policies whose end will be but to aggravate the difficulties consequent on this excessive growth of towns as compared with the country's development. It has been customary to congratulate Canada on the favourable distribution of her population between town and country, but with almost one-third of her people in towns and cities of over 1,500 inhabitants, and with this percentage of 33 developed from 28 in 1891 and 21 in 1881, the ground for satisfaction is rapidly decreasing. If we could take a census to-day, it appears by no means improbable that the towns of 1,500 and over would account for little short of 40 per cent. of the entire population. For a country boasting above everything of its wonderful agricultural resources, the situation is certainly remarkable.

The quality of the immigration we have received in the past, and are receiving in the present, is, then, such as to stimulate growth of towns rather than of rural occupations. How far the present development may be more favourable than that of the past cannot be definitely stated before the next census survey, which will show us not merely the growth of the West, mainly rural, but also the growth of the East, which, in some provinces, has been mainly urban. Thus, to give one further illustration, the towns and cities in Ontario which had 5,000 inhabitants or more in each in 1901 had added about 85,000 to their population since 1891, while the entire growth of the population in Ontario was under 69,000. If we take towns down to 1,500 population, the growth of urban residents in Ontario becomes 108,000, or nearly 40,000 more than the entire increase of population of the province. Even in Quebec, over three-fourths of the increase in population since 1891 was found in places of 4,000 or over in 1901.

But, besides the urban inflation, the quality of our immigrants has fundamental importance for other reasons. Four out of five of the newcomers are over twenty years of age, and there is a great preponderance of males. Now, only a little over one-half (11 out of 20) of the Canadian population is over twenty, and the excess of males over females, though distinct, is not very great. Consequently, the newcomers have a greater industrial power, and a greater voting power, than corresponds to their numbers. The voting power is not gained at once, and the non-British population remains alien for some time. But naturalization is general, and the influence on the political life of the community exerted by the foreign-born is considerable, and, as stated already, greater than in proportion to their total numbers.

Except in so far as the greater immigration of late years may have altered the proportions, we saw that the foreign-born were less than 14 in the hundred of the people. But this figure does not measure the social—and, perhaps, the political—influence of the foreign-born. To illustrate the point, in 1900 there were, in the United States, nearly 1,200,000 persons of Canadian birth. There were also nearly 1,300,000 persons, born in the United States, having one or both parents of Canadian birth, and 530,000 of these had both parents Canadian. Thus, the Canadian influence in the States has a wider range than is implied by the number of Canadians there, considerable as this is. And, passing from one nation foreign to the United States, to all foreign nations, we find that, in 1900, the native whites of foreign parentage were three to every two foreign whites of foreign parentage. As the foreign-born in Canada were about the same percentage of the population at the last census as in the United States, it is not unreasonable to compute their contribution to the population as similar in proportion to their numbers. This would give over a million of the native-born as having foreign parents, and one-third of the population either foreign or of foreign parents. The returns of birthplaces of parents which were given in the reports of the 1891 census entirely support these results. The number having Canadian fathers was rather under three-quarters of the number born in Canada, and only 64 per cent. of the entire population.

The fact that many of those who are born in Canada of foreign parents have one of their parents a Canadian may suggest that the influences operating on or exerted by those whose parentage is thus only partly foreign is likely to be less alien than Canadian. The considerable proportion of those of mixed parentage may represent one of the most effective processes by which the foreigners are assimilated—Canadianized. But a very large part of the foreigners who come to this continent do not marry native-born persons. The excess of males among the immigrants compels some to seek wives from among the native-born, if they would find wives at all. Yet the proportion who find wives among the immigrants. or to whom wives come from their own land, is very great, and this must tend to exert a very considerable influence on the social development of the communities among whom the foreigners dwell. The plan of settling groups of the different nationalities in separate localities presents advantages from certain points of view, but it cannot but tend to retard the spread of Canadian ideas and customs among these immigrants. Even if we did not claim that the Canadian ideas and customs are superior to those imported from their homes by the immigrants, the presence of the foreign ideals and the foreign spirit, so separated from influence by the Canadian as to retard the approximation of all to a common standard, may present undesirable, if not dangerous, consequences. The fact that one-third or more of the population is of foreign parentage is of no small moment.

As our future development is, in so large a degree, in the hands of the immigrants, it is of the greatest importance that they should be a desirable addition to our numbers. The views on this subject which are put forward from time to time are widely contrasted. On the one hand we have presented to us the conception of a selection of the boldest, most active and enterprising, the most far-seeing and determined of the peoples from whom we draw, finding inadequate scope for their powers in their native lands and searching for wider, freer opportunity of self-development, and finding it in Canada. On the other hand, it is suggested that the most helpless and incompetent, those who have failed to show the capacity to hold their own in the economic struggle, are forced to find another field of activity, or are helped to try whether a change of environment may give them a chance to find themselves. On the one view, we are bound to get the cream of the people of the Old World, on the other view we get little but the scum. The truth, of course, lies somewhere between the extreme views. In general, a man who is capable of doing well, can hold his own in his native land. In general, it will be some failure to adjust himself to his surroundings which will send him to seek his fortune in a new land. But it may happen that qualities which detract from his success in the old land will help to establish him in the new. Apart from this consideration, it would appear reasonable to conclude that the countries which seek to secure immigrants must be content with something inferior to the average of the countries supplying them, for the most part—at any rate, must not expect to secure uniformly those who are superior to the average. To make it certain that the migration shall not bring an excessive proportion markedly inferior to the average, we set up certain conditions for entrance. If we would not have the race deteriorated, we are bound to oppose the entry of the hopelessly incompetent, the incurably afflicted whether bodily or mentally, and the criminal. And the conditions of the case make it not improbable that an excessive proportion of these would be found among the emigrants if it were known that the entry here was free to all. The agents of the steamship companies are naturally more concerned with selling tickets than with picking the most desirable persons from the Canadian point of view. Unless we compel them, directly or indirectly, to abstain from sending undesirables, they will certainly send them. The ignorant and credulous can be more readily persuaded that all their troubles will melt away if they take the voyage across the Atlantic than can the intelligent and well-informed. Dissatisfaction with things as they find them affords an opening to persuasions to try a change. And in not a few cases dissatisfaction connotes a lack of qualities which ensure success. Hence the conditions affecting the case are such as are likely to provide more undesirables than we can reasonably accommodate, unless we adopt stringent and effective methods to prevent our country from becoming the dumping ground for the old world's failures. A question of right might be raised, whether we are justified in saying that others shall not share with us the bounty which nature has bestowed on this particular part of the earth's surface. This question I make no attempt to argue here. Whether we have a right or not, our action on this matter is likely to be adjusted in accordance with our views of our own interests, and it may suffice on this occasion to note that, in so determining our action, we ignore the question of our moral rights, or assume it settled in accordance with our desires, an assumption the examination of which would lead us too far afield.

Not a few writers, politicians, orators, have endeavoured to present the question of immigration as one in which a monetary expression could be given to the gain which a country secures in the additions thus made to its numbers. This gain is presented in various guises. Thus, we are sometimes called on to note the value of the possessions brought into the country by immigrants. So far as Canada is concerned, an estimate on this head is peculiarly difficult. Arrivals by sea, especially those from the Continent of Europe, are largely of persons having very little property. On the other hand, we have heard a good deal lately of the entry of farmers from the United

States with very substantial possessions. How shall we estimate the average of such different, and such uncertain amounts? It is, perhaps, not necessary to attempt the task. In any case it is in the highest degree improbable that the average of the best of recent years in this respect amounts to the average property of the residents in Canada. Estimates of the latter place it in the neighbourhood of $1,000 per head. The entry of immigrants with any amount smaller than this must reduce the average, for the time being. Moreover, it has been pointed out that a large number of the immigrants, after arrival, should they be successful in earning enough to do some saving, either remit part of their savings to relatives or dependents at home or the country from which they have come, or themselves return thither after a few years, with their accumulations. Thus a substantial offset to any property brought into the country with them is provided.

Another suggestion is that, as immigrants consist so largely of adults, the countries from which they come have borne the expense of their upbuilding, and the country of their adoption is saved that expense. The latter country acquiries, it is said, productive energies which it has paid nothing to create. A common valuation to set on an adult immigrant is a thousand dollars or more. At this figure, we should have, for the adults arrived last year, a gain estimated at well over $200,000,000. But is this more than a mere figure? Does it represent value received? It may be true that it would cost a thousand dollars to rear a Canadian from birth to manhood or womanhood. But things are not always worth what they cost. An immigrant who fails to earn enough to maintain himself can hardly be said to be a gain to the community whose charitable contributions maintain him, or which is taxed to provide him with accommodation in a poor-house or a prison. He may have cost a thousand, or many thousand, dollars to bring up, but the country does not gain by his advent in proportion to that cost. In some cases the gain far exceeds the cost of the newcomer's training, in others the gain is less than nothing. No general average can be stated. The question of gain turns on the nature of the country's undeveloped resources and the capacity of the immigrant to aid in their development. If we could determine by how much the presence of any given thousand immigrants adds to the well-being of the rest of the country, we should be on the way to stating the gain of the country by their coming—the loss it would have suffered had they stayed away or gone elsewhere. It is not enough that their presence enables an addition to be made to the annual production of the country greater than their annual consumption. If this be the case, then there is a material gain due to their presence. But it is not by any means inconceivable that additions to the supply of certain types of labour may favour the development of such forms of industrial or commercial organization as concentrate wealth and power in the hands of those who use it in ways injurious to the main body of citizens. Rapid exploitation of the natural endowments of our country seems a desirable thing, but it may be permitted to doubt whether it is wholly desirable that, in order to secure rapidity in the exploitation, the lion's share of the net advantages resulting therefrom should become the private and exclusive property of a small body of shrewd organizers. A slower development, and a wider diffusion of the benefits of the process, might be held to benefit the nation, as a whole, more than a rapid development by means which subjected the country to the domination of a few individuals, controlling in their own interests inordinately swollen fortunes. Mere priority in time is not a sufficient reason for permitting any person or persons now living to exclude all who come after from any but a minimal share of the advantages bestowed by nature on this or any other country. Property rights are no longer defended on the plea that discovery gives an adequate claim to exclusive rights of ownership, but on the basis of general advantage resulting from their acknowledgement. If the general advantage become too small, the continued recognition of property rights is in danger.

What has all this to do with our subject? It has this relation to it, that some of the recent troubles about immigration have clearly arisen out of the desire of grantees of privileges to secure for themselves with the least possible delay the advantages accruing from these privileges. They would have us assume that their own personal advantage implies a corresponding advantage to the country. They have demanded abundant supplies of cheap labour, to enable them to carry out their plans, and to carry them out at once. They may be right. A high selling price for labour is, in some ways, a disadvantage to the purchaser of labour. And if a moderate selling price for labour is accompanied by a low buying price for the things bought with the wages of labour, labour itself may be advantaged by the maintenance of its remuneration at a moderate level. Yet the urgency of some of the developments which it is sought to carry out at once, and for which cheap foreign labour is demanded, may be questioned. It is not rarely the case that to rush into doing a thing before we are quite ready for it is not the sure way to secure the doing of it most economically. May it not be so with Canada and the exploitation of her natural endowment? We have been getting immigrants very fast, but our growth from census to census has failed to demonstrate their retention. We have been getting them so fast that we have not confined our invitations to those whose capacity and training adapted them to the work lying nearest to hand for newcomers, namely, the development of our extractive industries. We have secured so many of the non-agricultural classes that our towns are gaining on the country in a degree which can scarcely be healthy. Have we not been in rather too much of a hurry? And this question gains point from the threatening distress, though it was suggested, not by this special condition, but by the general relation of the facts of the case to one another.

A. W. FLUX.

WHY CANADA ESCAPED.

AT the time of writing nearly two months have passed since the banking panic broke out in New York. In those two months the people of the United States has endured much. Banks have failed; firms and corporations said to be perfectly solvent have been driven into receivership; factories have been closed down, and thousands of workmen thrown from employment; the country has been humiliated through the suspension of banking payments, which has been general everywhere in the Union.

The chaotic conditions prevailing have been illustrated by all sorts of strange developments. The machinery of exchange between the various towns and cities broke down early. People in New York who received cheques on Philadelphia banks could not get them negotiated. Workmen received their pay in cheques and were told that the banks on which the cheques were drawn would not pay cash for them. Banks sent items for collection to banks in other cities and could not get any returns. A rich man, who said he had over a million dollars at his credit in one of the big New York banks, put a mortgage on his residence to provide him with money for day-to-day expenses. The *Wall Street Journal,* 21st November, says, in its Pittsburg news, "the country banks have been piling up reserves, and it seems as if they would close out every loan they have if possible."

For a time the banks in some places would not pay cash to their depositors, except in small amounts of $15 or $20 or so; they would not discount notes for their customers or others; they would not collect cheques and bills on other points; they would give no renewal or extension on paper coming due, but made their debtors pay everything they possibly could; in short, they refused to perform the functions they were created for. All they would do, in many instances, was to accept the deposits which people were foolish enough to give them and sit down on the money, refusing to give it back again. The big bankers in New York, and level headed bankers in other places, were doing their utmost to fulfil their obligations. They exhorted their fellow-bankers to be lenient on debtors whose paper they held, to extend the usual accommodation to their customers. The newspapers exhorted the people to trust the banks and not hoard their money.

On the 3rd of December the Comptroller of the Currency issued a call for statements of condition of national banks, and a curious state of affairs was revealed. It was found that the banks in various localities were sitting down closely holding on to cash reserves running from 30 up to 62 per cent. of their liabilities (one bank in Indianapolis took great credit to itself because its cash reserves were 62 per cent. of its liabilities). When these heavy reserves have been accumulated through refusing to lend and through unduly forcing payment of discounted paper they constitute monuments of banking incapacity and unfitness.

In Canada here a very different set of conditions has prevailed. So far there has been no panic, and none is expected. No banks have failed; depositors have not been disturbed. Canadian manufacturers have not had to close their works, merchants have not had to sell their goods at a loss because of their customary bank accommodation being withdrawn. Workmen of all kinds have got their pay as usual — in cash. Solvent firms have not been forced to assign because panic-stricken bankers were running amuck forcing liquidation of the bills in their portfolios. The inland exchange business was not at all interrupted. People who had cheques or drafts payable at other points could get them cashed as usual. Cheques and drafts on United States points were, however, at a heavy discount, and not always easy to negotiate, because of the suspension of payments in the republic. To be sure the panic had its effects in the Dominion, in that the rates of discount tended to stiffen and the banks showed a decided disinclination to enter into large new loans, along with a disposition to cut down the amounts of the regular credits asked for by their customers, but, as Sir George Drummond remarked at the Bank of Montreal meeting, this was acting "with caution and reserve, which was eminently proper with a conflagration raging next door."

The main point is that the Canadian honour has been kept bright in the eyes of the whole world. Twice since 1890 has the United States banking machinery broken helplessly down. In both occasions, notwithstanding that the Canadian banks had very close financial relations with New York, and notwithstanding that Canada had huge sums to pay the States on trade balance, our banks have calmly pursued their course, meeting their obligations whenever demanded. They have done this, too, while caring properly for the country's industry and trade. The achievement is decidedly creditable. Probably our showing of staunchness has done more to raise our credit in England than our recent prosperity has done. It is now seen that Mr. Fielding's well-meant design of aiding the banks to move the crops when they do not want to be aided, had the effect of raising some anxiety in England about the Canadian situation. Before the Finance Minister interfered, London was confident that Canada would come through all right. When it was announced that the Government had offered to help the banks, suspicion was at once aroused. As the *London Economist* put it, "if Government assistance was really necessary the strain on Canadian credit must be more serious than most people in England have believed." So it would have been better had the Minister not interfered. The *Economist* goes on to say, "The success of the Canadian bankers so far in dealing with the difficulties of this autumn is a remarkable proof of the soundness of the Dominion's banking and currency system."

The answer generally given to the question, "Why has Canada escaped the evil consequences that have overwhelmed her neighbour?" is comprised in the *Economist's* quotation. It is said to be because Canada has a sound banking system. As our legislators will shortly be discussing the next renewal of the Bank Act it will be well worth while to go into some detail in describing wherein our system is superior to that of our neighbours. Just what are the features that enable our banks to keep a dignified, unruffled course while practically the whole of the banks in the States were obliged to confess inability to meet their legal obligations.

Before going into the question of the respective banking systems it should be said that some authorities are inclined to place a good deal of importance on developments altogether outside the banks as contributory causes of the American breakdown. Perhaps the chief among these outside developments has been the disclosures of dishonesty and corruption in high finance, and the general pursuit of corporations by the President, state legislatures, and the press. It is quite reasonably argued that these things have shaken public confidence, and weakened the fabric of credit. To whatever extent this has been the case it has operated as a disability for the United States, for Canada has been reasonably free from that disturbing influence. But a calm study of the situation fails utterly to show why these things should cause the banks of the whole country to suspend payment. It is conceivable that the particular banks in the cities that were under the domination of, or closely connected with, the financiers who had fallen into disrepute, should be put under a severe strain, but why should the banks in the south or the west, or the northwest, have to quit because of that? It is difficult to find any other conclusion than that the general collapse was due to the inherent weaknesses of the system of isolated banks.

Let the reader imagine himself to be living in a United States town of, say, 15,000 people. He comes into possession of $10,000 cash and wishes to find a safe depository for it. The times are quite normal. No panicky conditions prevail. There will probably be three or four national banks there. He doesn't know very much about any of them. Each one has its president and board composed of local business men. Some of these are reputed to be rich. The banks are all small concerns, the biggest of them with probably half a million of assets. If he looks into their history he may find that one was organized three or four years ago by men who had no previous knowledge of banking. The others date back ten, fifteen and twenty-five years. Perhaps one or more of them have failed and been reorganized. Those that were going in 1893 stopped payment in that panic. If it is a western town it will probably be that they all charge very high rates of discount and go in for deals and other business on the side. In the East, there might be a savings bank, but even if there was, and if it was held in good estimation he would, perhaps, be confronted by the fact that it had refused to pay its depositors in 1893 except on their giving 60 days' notice.

How different would be the situation that confronted him in a Canadian town of the same size. Every town of that size in Canada has branches of the country's best banks. The would-be depositor could take his choice from a list of banks showing assets from $10,000,000 up to $170,000,000 — banks known and respected all over the country, enjoying a national reputation for solidity. He will not find anybody among the people living there who ever put money into them and failed to get it out on demand. There is no case of large loans to industries in which local directors are interested, because there are no local directors. In place of them there is a manager who is a trained banker, who is supposed to bring an absolutely unbiased judgment to bear on all applications for credits.

If it was in England, Scotland, France, or Germany, there would similarly be available the branch of some bank or banks known all over the country as sound and solid. It is only in the United States that depositors have nowhere to put their money except in small isolated banks not known or respected outside of the immediate neighbourhood of their one office, and quite frequently not much respected there. That undoubtedly is one of the underlying causes of the frequent break-downs in the States. The counts of the indictment against the banking system might be multiplied manifold.

It is wasteful in its operation. Take the town referred to above. There would be, operating the four national banks, four presidents, four vice-presidents, four boards of directors, four cashiers, besides the clerical staffs; while all that would be required, under the branch system, would be four managers. Applying this line of reasoning to the whole United States it becomes apparent that the business men and people of that country are supporting a veritable army of bank officials who are not required. If the country gained some important peculiar advantages from this costly system there would be some reasonable excuse for its perpetuation. But the advantages are difficult to find. Wherever the branches of the Canadian banks are established they take all the good business they can get — both in the way of leading and deposit-getting. The result is that all the available cash resources of the country go with least resistance to the places most needing them. They flow there easily, naturally, as water runs down hill. In the States as in Canada there are hundreds of little places in the East where there is practically nothing going on to employ the local funds — places where deposits are large and where little or nothing can be lent. In Canada this surplus capital is applied automatically through the operation of the branch system, to the development of the districts in the newer west, or of the manufacturing towns and cities of the east. No matter how small the place, and no matter if a local branch has no opposition it stands ready to take all the deposits, large and small, that are offered, and to pay the current rate of interest on them. In one of these places in the States, the tendency is for the capital to stagnate. There is no machinery available to transfer it easily and cheaply to places where it is really needed. There is a temptation for the bank directors to start up enterprises merely for the purpose of using the bank's funds — something which is abhorrent to bankers brought up in sound principles. As there is not any decided demands for discounts no real effort is made to draw out the savings of the people. Maybe no interest is allowed.

Another serious charge against the system of isolated banks is that it does not permit the few trained experts who are in position to know when speculation and booming is being carried to excess, to exercise wholesome control over the speculators and boomsters. We have seen how, all through the year 1907, the head bankers in Montreal and Toronto were able to check the speculation in Western land, to reduce speculation in stocks. Mr. Clouston explained to the Bank of Montreal shareholders how the bank raised its rate of discount early in the year, not so much to increase the profits as to put a check on the enthusiasm of its customers. There is not the slightest question but that the action of the bankers in thus holding their borrowers firmly in hand during the prosperous times had a great deal to do in enabling Canada to come through the panic so well. It should be borne in mind that the branch managers, as a rule, are generally anxious to expand, so as to increase their profits, so the head offices would be obliged to restrain them as well as the borrowers. Taking them altogether the Canadian branch managers are more expert bankers than the

American country bankers, for the simple reason that they are all trained men who have risen from the post of junior clerk. If *they* need to be held firmly in hand, how much more would the American bankers need it. The great bankers in New York or Chicago might see ever so clearly that borrowers all through the States should be held down, but they have no power whatever to impose their views upon the interior banks. They have got to sit still and watch while the boom is stimulated, and stimulated till it bursts.

And when the crash comes they are even more helpless than before. They can see clearly enough that for the interior banks to draw away all the available cash from the heart of the nation to the less vital parts, and to make frantic efforts to collect all their paper, is the policy surely calculated to bring the whole banking structure down, but they have no say in the matter at all. They have no authority over the country offices and they have to obey when the country creditors order shipment of their balances.

The spectacle of the six thousand national banks scrambling, every one for itself, for the available supply of cash has not been an edifying one. The *Wall Street Journal* puts it mildly when it says that the accumulation of a cash reserve of 62 per cent. by a certain bank is " the result of the absence of proper co-operation among the banks." The point is, can there ever be proper co-operation among so many banks? Can it ever be attained without instituting the branch system?

If the United States people ever get a clear notion of what the branch banks of Canada do for Canadian borrowers and depositors, for Canadian industry and trade, it might be that " branch banks " would be taken out of the list of " political impossibilities."

H. M. P. ECKARDT.

THE FINANCIAL SITUATION IN THE UNITED STATES.

AN address of the Hon. Charles N. Fowler, Chairman of the Committee on Banking and Currency, upon the Financial Situation in the United States, recently delivered before the Illinois Manufacturers' Association at Chicago, will be read with interest by every Canadian banker who knows aught of the splendid efforts being made by Mr. Fowler and others to effect necessary changes in the banking and currency system of their country.

The address is too long for publication in full in the columns of the JOURNAL, but the following extracts will serve to show the forcible illustrations employed by Mr. Fowler as a means to make his hearers realize the imperative necessity of a great "educational campaign."

Upon the currency question which has bothered our neighbours so long, so much has been said and written by unconscious humourists that, save for the seriousness of the situation, we feel inclined to join with the Chairman of the United States Committee on Banking in dubbing the financial and currency practices he so strongly condemns as a "grotesque farrago," and to endorse his letter to Secretary Cortelyou describing clearing-house certificates and cashiers' cheques as "superficial tricks and mechanical devices."

Mr. Fowler is reported as follows:

PATRIOTIC DUTY.

If I saw the Government of my country going wrong, radically wrong and pursuing a policy that must inevitably lead to financial disaster, commercial ruin, to immeasurable losses to the people, to National discredit and disgrace, and yet did not earnestly protest and do all in my power to prevent these consequences, I should be untrue to myself, unworthy of the trust imposed in me, recreant to my duty and a traitor to my country.

If upon this occasion I shall show you that we have been going wrong in our finances ever since the Civil War, and that the fundamental evils, then incorporated into our financial and currency practices, are now leading us directly, unerringly, inevitably and swiftly to conditions that will certainly outparallel the difficulties, disasters and disgrace that may have ever visited any civilized country, what will your duty be? What is more important, what will your action be?

True patriotism and love of country find their finest exhibitions in the civic walks of life; because, here, there is none of the glamour and glory of war, very little public inspiration, and their compensation comes in the silent consciousness of duty done.

Are you patriotic, loyal and self sacrificing enough to fight for such a reward?

THE UNITY OF THE REWARD.

As in 1896 certain sections of our country were arrayed against certain other sections, brought about through misstatements and misapprehensions, and men raged against the "gold bugs" as if they were public enemies, and when one conspicuous politician visited New York, he called it the enemy's country.

Gentlemen, there is no enemy's country anywhere under the Stars and Stripes!

So, to-day I learn from my fellow-members of the House of Representatives and from editorial comments that there is a profound misunderstanding and a consequent most unfortunate misapprehension of the present situation.

Meeting a United States Senator from the West just one week ago to-day, he said: "If your damned New York and Chicago bankers had paid us our money, we should have been all right."

No bank can or is expected to pay all its depositors in a day. Suppose that the banks of the Senator's home town had not had a single dollar in the Chicago or New York banks. Would the Senator say that his home banks could have paid all their deposits upon demand? No. Now, who are the depositors of the Chicago and New York banks? Not only the merchants and manufacturers of those great cities, but the country banks, including the banks in the Senator's own town.

Does anyone believe that the clearing-house committee of Chicago is less true and patriotic than the clearing-house committee of St. Paul or Duluth, or of St. Louis or New Orleans? Or that the clearing-house committee of St. Paul or Duluth, or of St. Louis or New Orleans, is less true and patriotic than that of Kansas City; or the Kansas City committee less so than that of Salt Lake City; or the Salt Lake City committee less so than that of San Francisco?

Does anyone believe that the clearing-house committee of Chicago is more true and patriotic than the clearing-house committee of Boston, Philadelphia or New York?

Gentlemen, all the banks are relatively in the same position; and I think it can be truthfully stated that the action of our bankers throughout the whole country during the recent trying circumstances is a source of profound satisfaction; while the self-control manifested by the people generally, north and south, east and west, is a guaranty of Republican institutions.

Any man who attempts to arouse and set one section of our beloved country against another, or array one class of our people against another because it happens to be more powerful politically, is not a true friend of the people—indeed, he is an enemy of the Republic.

All things considered, if there is one class of our people more unfortunate than another, or one spot in our great country more sorely afflicted than any other, it is the wealthy people in the City of New York. Then, why should blame rest there? Can anyone, upon second thought, think that any people would consciously and willingly court misfortune? No, gentlemen; let us be true, square, intelligent brave men, and seek out the real causes and put the responsibility where it rightly belongs. No manly man, no patriotic man, no lover of his country, will desire to do less.

INVESTMENT CAPITAL.

The financial condition of the United States is very similar to that throughout the world; because, from the standpoint of investment capital, the whole world over is practically one.

Let no one suppose that I am not aware that the Spanish-American war, the Boer war, the Baltimore fire, the Japanese-Russian war, the San Francisco earthquake and fire, the Chilian earthquake, all combined consuming about $4,000,000,000 of wealth, and the tremendous expansion in railway and trolley building and equipment, in mine development and in the increase of manufacturing plants, had, by the first of the year, 1907, completely exhausted the investment fund of the world, and made large encroachments upon the commercial fund.

CURRENT EXCHANGE.

On the other hand, gentlemen, mark this difference—the commercial condition in the United States is very dissimilar from that to be found anywhere else in the world so far as I know, because no other country has so poor a mechanism of current exchange as we have. So far as I can judge, no such condition could exist anywhere else in the world except here; and I am convinced that if we had had such a system of currency as Canada or France now has, the currency panic of 1907 would never have occurred, and we should never have been conscious of the fact that we are handling agricultural products worth more than $7,000,000,000, in connection with the output of our mines and factories valued at more than $18,000,000,000.

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CENTRAL BANK.

Undoubtedly there are some here who may expect or desire to hear what I think upon this subject. Therefore, I shall frankly express myself upon its various phases.

First.—A great central bank is, in my opinion, a political impossibility at present.

Second.—I am confident that if one were possible there is no such genuine knowledge in this country of the various aspects of the subject involved as would justify any right, proper or adequate conception of a central bank that would meet the present needs, to say nothing of anticipating the commercial development of the country during the next thirty years.

Third.—The establishment of a central bank in 1793 and again in 1817 was one thing; but the establishment of such an institution to-day would be a vastly different thing; when you recall the fact that the present banking power of the United States now exceeds $16,000,000,000, and is greater than the entire banking power of the world in 1890—only seventeen years ago.

A corresponding increase during the next thirty years will make our banking power more than $40,000,000,000, or $3,000,000,000 more than the entire banking power of the world to-day.

From my experience in public life, I venture the prophecy that it will take several years, possibly a quarter of a century, to educate the public to that degree of intelligence and appreciation that will justify a favourable vote in Congress for the establishment of a financial institution adequately meeting the commercial requirements of this great country; and to attempt it now and put such an institution into a straight jacket would be one of the greatest misfortunes that could befall us.

Let me call your attention to the startling fact that it was four years after the decisive victory in favour of the gold standard in 1896 before the gold standard act was passed—March 14, 1900.

Central Bank Not Essential.

I am one of those who do not regard a great central bank as essential to a scientific, sound and wise banking and currency system for the United States; provided we can unify and co-ordinate our banking interests, bringing them substantially into one system which will secure universal co-operation and the strength of a combination of our entire banking capital, and, even with a central bank the same co-ordination must be effected.

The Ten Per Cent. Tax.

It may be suggested in this connection that the ten per cent. tax be removed from state bank notes as a relief to the situation. But, on second thought, no one can hope to see that done, because the reserves required by many of the States are not of the right character or sufficient in amount to protect the public.

Again, the variety of the notes would equal the number of the banks; or, even if each State supervised and furnished the notes of its banks, we should have forty-six kinds of notes, all paying a discount when away from home. The convenience and economy of the public require a currency good everywhere and national in its character.

If practically all the banking interests are brought under national supervision, two things at least will result with reference to the reserves—the quality and quantity will become uniform, and the bank notes will no longer drive out gold by displacing it in our reserves.

What is Essential.

Our reserves must be all of the same character; gold or its equivalent; because gold is our standard of value.

Our reserves in all of our financial institutions must be adequate to prove our credits and protect our depositors.

We must adopt the principle of free interchange of bank-book credits and bank-note credits.

Our bank notes must spring into existence precisely as checks and drafts do through business transactions.

Our bank notes must be related to and based upon the consumable commodities of the country; going out with production and coming in with consumption.

No part of the capital necessary to conduct properly the commerce of the country and pay for production and transportation should be transferred to the investment account and thereby made fixed capital.

Savings from labour, the excess of profits on business and the income from rents and securities should constitute the investment capital of the country.

Primarily, all classes of useful citizens are interested in productive occupations, and directly or indirectly are affected by them if not dependent upon them; therefore, if possible, the commercial fund should never be encroached upon for investment purposes. This was the primary cause and is an important factor in our present trouble.

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BANK UNIFICATION.

Having already spoken of proper bank reserves I shall now speak first of bank unification and co-operation, and, second, of credit currency.

Practically, all the business that distinguishes a trust company from a regular bank to-day has grown up since the passage of the national bank act.

A law should be passed giving to the national banks the right of exercising in the respective States where located all the powers of executors, administrators, guardians and trustees.

Who will oppose granting these powers to the national banks? Do you answer: "The trust companies in the various States?" If so, they can give but one reason, and that is cupidity and greed, evidenced by the fact that upon a much smaller reserve than prudence justifies they conduct a regular banking business and carry on the trust business in addition; for upon the passage of a law authorizing the national banks to do a regular trust business, the trust companies could nationalize and have in turn all the advantages of the national bank act.

Unless this step is taken, the advantages now enjoyed by the trust companies will gradually but inevitably compel the national banks to surrender their charters for trust-company charters; for if a trust company is required to carry only one-fifth or one-half the reserves of a national bank, it can afford to pay a much higher rate of interest upon deposits and eventually undermine the national bank.

These conditions are constantly confronting those who are starting new financial institutions; and, of necessity, the greater margin of the profit promised under trust company laws determines the decision of those interested; they relying upon their own wisdom as to what are proper reserves.

The Encroachment of Trust Companies.

The following tabulated statement demonstrates beyond the possibility of doubt the gradual encroachment of the trust companies and the final extinction of the national banking system; solely because of the reasons stated:

National Banks.

	Capital.	Deposits.
1890	$642,073,676	$1,521,745,665
1900	621,536,461	2,458,092,757
1907	896,451,314	4,319,035,402

Trust Companies.

1890	$ 70,676,247	$ 336,456,492
1900	126,930,845	1,028,232,407
1907	276,146,081	2,061,623,035

State Banks.

1890	$188,700,000	$ 553,100,000
1900	237,000,000	1,266,700,917
1907	471,163,000	3,068,649,860

Capital.

	1890.	1900.	1907.
Nat'l Banks	$642,073,676	$621,536,461	$896,451,314
Trust Cos. & State Banks	259,376,247	363,930,845	747,306,081

Deposits.

	1890.	1900.	1907.
Nat'l Banks	$1,521,745,665	$2,458,092,757	$4,319,035,402
Trust Cos. & State Banks	889,556,492	2,294,933,314	5,130,272,895

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CO-OPERATION SHOULD BE COMPELLED.

If opposition developed on the part of either the state banks or the trust companies, the people, who have $12,000,000,000 of deposits in our banks and are interested in a proper and adequate reserve to protect them, should compel co-operation.

The people have the right to insist upon uniformity in their banking system if such uniformity is essential to the safety and convenience of the public. Cupidity and unconscionable greed must be the only source of any opposition that arises.

THE ADVANTAGE OF CREDIT CURRENCY.

If our banks were authorized to convert their bank book credits into bank-note credits, upon the demand of depositors, there never would be a currency famine such as we are suffering from now.

Mark this; there is not the slightest difference in principle between bank-book credits and bank-note credits; for one is a credit subject to order and the other is a cashier's check to bearer. Tell me, would it make the slightest difference to a bank whether it owed a million to depositors subject to check or a million in cashier's checks? Certainly not. The Bank of France owes ten times as much to note-holders as it does to depositors; owing about $1,000.000,000 to the note-holders and only about $100,000,000 to depositors.

THE HABITS OF THE PEOPLE CONTROL.

If the customers of a bank had their choice between these two forms of credit, the habits of the people would determine whether the bank owed more to depositors subject to check or to noteholders.

The people of Scotland for 143 years never made a deposit subject to check; but only exchanged their time notes for the cashier's checks payable to bearer or current credits, credit currency. Their habits are now so completely changed that they have only $35,000,000 of cashier's checks in circulation, while the deposits subject to their order amount to $150,000,000.

The Bank of Germany has outstanding $450,000,000 of cashier's checks or notes, and has deposits amounting only to $150,000,000.

The Bank of France has issued about $1,000,000,000 of cashier's checks or notes, while the deposits amounts to only one-tenth as much, or $100,000,000.

On the other hand, the banks of Canada with the right of capital issue have only $75,000,000 of cashier's checks out; while their deposits amount to $600,000,000.

In 1811, the notes of the First United States bank outstanding amounted to $5,037,000, and the deposits were $6,900,000.

In 1832, the notes of the Second United States Bank outstanding amounted to $21,000,000, and the deposits were $22,000,000.

In 1860, the Bank of the State of Indiana, which alone of all the Indiana banks had withstood the panic of 1857, had $5,753,000 notes out, and only $1,200,000 of deposits.

In 1857, there were 515 banks in the six New England States clearing through the Suffolk Bank of Boston; and there are about the same number of banks in those States to-day. Their deposits amounted to only $25,000,000; while their notes outstanding amounted to $55,000,000.

Without any possible fear of successful contradiction therefore, I assert that there is absolutely no difference in principle between bank-book credits and bank-note credits; and that where there is a perfect interchangeability between the two, the habits of the people will determine whether the notes outstanding or the deposits are the larger.

CREDIT CURRENCY NOT EXPANSION.

Credit currency does not mean expansion, nor does it mean inflation.

Whenever I fall in with anyone who has never studied this question and thought it out, he almost invariably suggests as an objection that it means expansion or inflation or both; when neither is the possible consequence of a free issue of credit currency.

I assert that credit currency does not mean or lead to expansion.

Ricardo says: "The issuers of paper money should regulate their issues solely by the price of bullion and never by the quantity of their paper in circulation. The quantity can never be too great or too little, while it preserves the same value as the standard."

What is expansion? It is increasing the liabilities of a bank without correspondingly increasing its reserves. The reserves may all be in gold coin, and yet the bank may expand to a dangerous point, even to the point of destruction; for it could expand its liabilities until its reserve was only one per cent. But such expansion would ordinarily be fatal even though the one per cent. were in gold coin. When the management of a bank considers the question of increasing its liabilities, the only important matter is whether its reserves will justify it. It is a matter of no practical importance whether the increased debt is a ledger credit to be checked against, or a cashier's check, payable to bearer, which is a current credit or credit currency.

CREDIT CURRENCY NOT INFLATION.

What is inflation? It is basing one credit upon another credit; that is, basing a bank's liabilities upon credit such as one present bank-notes, which are in turn based upon another credit, a Government bond, which is due is about twenty-five years.

Now, would any banker hold a cashier's check *payable to order,* whether of the weakest or the strongest bank in the United States, as a part of his reserves? You answer, "No—under no circumstances. He would send it home as directly and swiftly as he does checks and drafts for immediate redemption."

Would a banker be any more likely to hold a cashier's check, *payable to bearer,* whether of the weakest or the strongest bank, as a part of his reserves? You answer, "No—under no circumstances. He would send it home as directly and swiftly as he does checks and drafts for immediate redemption."

But the cashier's check, payable to bearer, is a current check or credit currency.

Therefore, I assert that credit currency can not under any circumstances lead to inflation. On the other hand, it will be a distinct prevention of inflation such as we are suffering from to-day by using bank notes as reserves. Because the bank's obligations in the form of cashier's checks or credit currency will be sent home with the same directness and swiftness that checks and drafts are, always keeping the currency of the country down to the lowest point of necessity, and yet always meeting the largest demands of trade and commerce.

I challenge anyone to deny and contravene these foregoing propositions with regard to expansion and inflation.

Now, do not forget this: a banker may make poor loans upon overvalued securities and high-priced goods or bad personal risks; but these are cases of faulty business judgment on the part of the banker and have absolutely nothing to do with bank-credit expansion or bank-credit inflation.

Credit Currency Co-ordinated to Business.

Therefore, I assert that credit currency, when put upon the same footing in all respects as checks and drafts, will, instead of meaning or leading to inflation, prevent inflation; for our currency will then be perfectly co-ordinated to the needs of business, being neither too great nor too little, the cashier's checks springing into being with business needs, and automatically disappearing precisely as checks and drafts do.

This is not a theory, but the experience of two hundred years. All the rest of the civilized world are availing themselves of this principle to-day, and are using credit currency to the extent of about $4,000,000,000, or of more than 20 per cent. of their entire banking capital; while, on the other hand, the United States, with $16,000,000,000 of banking power, more than three-sevenths of the banking power of the world, has not one cent of current credit or credit currency in use.

Bond-Secured Currency Not Co-ordinated to Business.

On the other hand, no civilized country now has a bond-secured currency such as we have; and no civilized country *of consequence ever did have such a currency except one, and that is Japan, who copied it from us only to repudiate and discard it in favour of a credit currency.*

When Secretary Chase forced our bond-secured note scheme upon the country in 1863, it was purely a bond-selling project—and it is only a bond speculating device to-day. There has not been a single hour from the time when the first note was issued up to this moment when the notes outstanding bore any distinct relation to the business which was being transacted in the country.

Mark this—from 1882 *down to* 1891, *during a period of great business expansion, the bank-note circulation decreased from* $365,000,000 *to* $122,000,000, *simply because there was no profit in holding the bonds. From* 1891 *down to this very autumn, there have been many years when the bank-note currency has actually contracted during the fall months when it ought to have expanded at least* $250,000,000, *simply because it paid to sell the bonds; and there have been quite as many years when there has been an expansion from January to July, though there ought to have been a contraction of at least* $250,000,000.

AMOUNT OF BANK NOTES NOW HELD AS RESERVES.

Note this fact and ponder well. Ask yourselves whether you want to go further in the direction we are now moving.

Already $200,000,000, or nearly one-quarter of all the reserves now held by the banking institutions of the United States, are in bank notes. That is, of the $12,000,000,000 deposits in the banks of the country between $2,500,000,000 and $3,000,000,000 are based upon bank notes, mere promises to pay, and these mere promises to pay are again in turn based upon a debt of the government, another mere promise to pay, which is not due for about twenty-five years, and then is to be paid, if at all, out of taxes to be collected.

How long will it be before all of our deposits will be based upon mere promises to pay which in turn will be based on the debt of the Government, the debt of states, the debt of municipalities and the debt of railroads?

THE DANGER OF WORSE DISASTER.

With these astounding facts pressed upon our attention, can any man, any honest, intelligent, fair-minded man, deny that there must be something radically wrong, fundamentally wrong, disastrously wrong, with our present currency making devices; and that to them can be traced with unerring certainty the inexcusable calamity that has darkened our commercial sky, this fall, in the very midst of abounding prosperity?

Yet while we are still in the throes of our commercial catastrophe there are those who, ignorant of the causes and thoughtless of the future, would have us take another plunge in the same direction by adding to our overwhelming load of fixed, immobile, bond-secured notes another mass of bank-notes based upon State, municipal and railroad bonds. Could anyone conceive and plan a more gigantic scheme of inflation?

I now declare that if this government continues its present policy in injecting into the arteries of trade and commerce a fixed, bond-secured currency, by swapping securities, by bond speculations, by Treasury manipulations, and by executive orders, we shall continue to move only with an accelerated speed, and with the directness of a musket groove, and the absolute certainty of passing time, toward a commercial breakdown—a commercial crisis, a commercial tragedy—compared with which the present currency panic is only a pleasant summer outing.

INTELLIGENCE AND COURAGE CHALLENGED.

Are we such business fools, such economic idiots, such political cowards, that we will not move even though the heavens fall? And if perchance we do move, shall we jump into the fathomless abyss of basing credit upon credit instead of basing all bank credits, whether deposits or note-issues, upon gold coin?

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CREDIT CURRENCY ADJUSTMENT.

Now, mark this, wherever a credit currency is in use, it automatically registers every change in trade, year in and year out, month by month, and day by day.

In absolute confirmation of this statement, I call your attention to the currency fluctuations in Japan, Scotland, Austria, France, Germany and Canada; and I hope that you will study them, for they are a mathematical demonstration of the principle of credit currency.

Name of Country.	Percentage of Variation.	Amount of Variation.	Per Capita Variation.	Times of Variation Per Year.	Month of Maximum Variation.	Month of Maximum Variation.	Amount of Variation U. S. Would Have Relatively.
Japan	21.1	$ 24,222,000	.48	One	January	May	$ 40,800,000
Scotland	15.8	5,465,000	$1.22	Two	July and December	April and September	103,700,000
Austria Hungary	20.9	62,530,000	1.28	Three	Jan'y, May November	March and July	108,800,000
France	7.8	67,600 000	1.73	Two	Jan'y.and November	April and July	147,050,000
Germany	39.7	120,000,000	2.12	Four	Mch., June, Sept., Dec.	Feb. May, Aug., Nov	180,200,000
Canada	37.	22,733,756	3.29	One	October	January	279,650,000

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A Reasonable Tax.

Now, there are three good reasons why there should be a tax of some kind upon true bank-notes.

First.—There should be a small tax, say, one-fourth of one per cent. per annum, to create a guaranty fund to pay the notes of banks that fail; for every note holder who lives at a distance from the bank of issue is an involuntary holder of the notes, and public policy demands that he should be protected, in order that our currency may be good beyond peradventure and acceptable everywhere.

Second.—There should be a tax of possibly 1 per cent., to pay the cost of transmission and redemption.

Third.—Since the banks of the country have adopted the practice of paying, upon the average, about 2 per cent. upon bank balances, it would be reasonable to impose a tax of this amount upon true bank-notes since they are only another form of deposits.

But the total tax should not exceed 2 per cent., out of which the guaranty fund and the cost of transmission and redemption would be taken.

CURRENT REDEMPTION.

Let every bank in the United States be brought within twenty-four hours of a redemption agency, and let all the cost of the transmission and redemption of the notes be paid by the United States out of the 2 per cent. tax imposed upon the notes; then every bank-note issued will be sent home as directly and swiftly as checks and drafts are, and our bank-notes will always be adequate to the demands, no more, no less, expanding automatically to meet every call, and retiring automatically as the demand ceases.

This is precisely what is happening to-day in Japan, Scotland, Germany, France, Canada, and other countries, and be it remembered that it is wholly due to the law of economic gravitation, expressed in selfishness, cupidity, greed, and certainly of profit, and not, in any instance, to a tax upon note-issues.

A PRACTICAL ILLUSTRATION.

I assert that if, last July, when the demand for currency began, the banks of the United States had been authorized to convert their bank-book credits into bank-note credits, we should have escaped the calamities growing out of the currency panic this fall.

Now, note just what would have happened. There is an extraordinary demand for currency in this country, beginning with July and terminating about the first of January, amounting to about three hundred millions of dollars, and it is known that the banks in our great commercial centres, like St. Paul, Omaha, Kansas City, St. Louis, New Orleans, Chicago, and the cities throughout the East, are owing to the banks throughout the country districts a sum largely in excess of this amount.

If the banks located in these commercial centers had been authorized to issue cashier's checks payable to bearer, or credit bank-notes, they could have responded to this demand for three hundred millions of currency and paid off the bankers in the country districts without increasing their liabilities to the extent of one dollar, and without adding one single dollar to their reserves, for the banks issuing these cashier's checks, or bank-

notes as they now do against their deposits subject to check or draft. It would have been simply a matter of bookkeeping; the banks in the commercial centres would have charged the banks in the country districts with the amount of notes sent and credited their own cashiers with a similar amount.

There has not been expansion to the extent of a single dollar, there has not been inflation to the extent of a single dollar, and when the demand throughout the country districts began to diminish in January these cashier's checks or credit notes would be returned to the banks that issues them and be paid, in cash, or deposited to the credit of the bank sending them in, and so be reconverted into a bank-book credit, subject to check.

Clearing-House Certificates.

When universal panic struck our beloved country in the very midst of abounding prosperity, and we were in the throes of commercial distress, natural law pointed out the way. It was through the use of current credit, related to and based upon the consumable commodities of the country, the things we eat, wear and use.

What was it? It was the clearing-house certificate and cashier's check, a pure credit currency. This sprang into being under the pressure of necessity, and will automatically disappear as that necessity recedes; perfectly adjusting itself to every condition from day to day.

These clearing-house certificates and cashier's checks were issued without authority of law, and under very great disadvantages; because it was necessary to successfully evade the law. And yet, will any man say that this credit currency did not save us from a commercial disaster which would beggar the imagination of any human being?

Has this great lesson taught us nothing? God forbid.

Now, mark this—While all these credits will soon disappear, you will find that the immobile, sodden mass of Government bond-secured notes will remain to a single dollar; and will pile up and crowd themselves into the reserves of our banking institutions, state banks, trust companies, private banks, and even into our national banks, forcing out a corres-

ponding amount of gold, and so undermining the $12,000,000,000 *of credits in this country.*

I warn you now against the fathomless abyss of inflation we are slowly but certainly approaching. Shall we stop now, or proceed and hasten the day and guarantee the result by adding state, municipal and railroad bonds as a basis of bank currency?

QUESTION MUST BE SETTLED RIGHT.

Gentlemen—Until we adopt this principle, and relate our currency to and base it upon the consumable commodities of the country, we shall experiment in vain. As I wrote to Secretary Cortelyou, "All these superficial tricks and mechanical devices will fail; and, after stumbling about for five, ten, fifty, or possibly one hundred years, we shall come back to these fundamental economic principles which work economy and justice to all who are affected by them."

Gentlemen—I know that this question will never be settled right until it is submitted to the people for decision precisely as the question of the establishment of the gold standard was submitted to them, and I know equally well that the people's intelligence and patriotism will decide this question, as that was decided, right.

I know that if the Senate and the House of Representatives do anything before a great educational campaign upon this subject, it will simply be to sew another rotten patch upon an old, ragged garment, already well nigh covered with rotten patches.

THE QUESTION RESTS WITH THE PEOPLE.

This question is not up to Congress now—it has passed that. It is up to the people of the United States—it is up to you, the men, within the sound of my voice. Will you do your duty and make this question the issue of the hour; or will you let the politicians make your issues for you?

There is not a labourer, not a manufacturer, not a merchant, in the United States, to whom this question is not of vastly greater importance than all other questions combined. Indeed, when we consider what may happen to the commercial interests of this country at any moment, all other questions sink into nothingness in comparison.

Labour is now paying a penalty of $150,000,000 a year, as I have pointed out, to keep up the grotesque farrago of our financial and currency practices. Hundreds of thousands of men are now idle, two millions of men may be idle as the result of present conditions; and, so long as we continue these conditions, will we constantly jeopardize the prosperity of the people and the welfare of the whole country. For it will be an accident every fall if we get through without a repetition of our present experience, bitterly intensified, too, should the misfortune overtake us when general conditions were bad.

Mark my warning to-night—I challenge the attention, the intelligence, the self-interest, the patriotism and the conscience of the American people; and, in the face of what has transpired during the last thirty days, I charge all the responsibility for the future upon the people of the United States, and especially upon you who hear me now; for you have it in your power to demand a full discussion of this question before the people, and a verdict at their hands. Will you do it?

THE NEEDS OF THE HOUR.

As the contest for the gold standard brought confidence, strength, stability, progress and prosperity to our country, so will a campaign for a scientific, sound and wise financial and currency system lead us out of our difficulty, protect us against like dangers and immeasurably greater misfortunes in the future, and guarantee to us permanent conditions.

In the first throes of this currency panic I was asked about the advisability of an extra session of Congress, and replied: "No, we want no more unrest, apprehension, destruction of credit and disturbance of confidence in American business; we want rest, recuperation, construction and a revival of faith and hope in American manhood.

We want less sensation and more sense.

We want less dynamite and destruction, and more cement and construction.

We want less Constitutional anarchism and more Constitutional liberty.

We want less Governmentalism and more individualism.

Remember! Remember! my countrymen, remember! That the cornerstone of this republic is a free man. Physically free, intellectually free, religiously free, politically free, commercially free. That its very foundations rest upon local self government; and that if it endures forever it must be through the conscience, intelligence and strength of the people themselves.

All our surpassing achievements and national glory are traceable to the individualism and personal initiative of the American people, and our sole hope of a triumphant and transcendent future is in an absolutely free man.

Let us see to it then that no citizen secures any advantage whatever over any other citizen through the forms of law; but that all have and enjoy equal opportunities under the operation of absolutely equal and just laws.

Let us see to it that no corporation secures any advantage whatever over any other corporation through the forms of law; that no corporation secures any advantage whatever over any private citizen through the forms of law; and that no corporation secures any advantage whatever over the people themselves through the forms of law; but that every grant of power by the people to a corporation, giving it a legalized monopoly shall have its corollary and counterpart in legalized regulation.

Whatever our problems may be, however difficult our tasks may be, I have absolute confidence in the intelligence and conscience of the people to solve and settle them wisely and justly, and I believe that they will not condone crime, or wrong-doing of any kind, at any time, or any where.

I believe that the American citizenship of 1897 is morally and intellectually better and higher than that of one hundred years ago. I believe that we are better to-day than we were yesterday, and that we shall be better to-morrow than we are to-day.

I believe that American manhood and womanhood, man for man and woman for woman, are vastly superior to the manhood and womanhood of any other nation on this globe.

Let us respect ourselves as we are entitled to, and then others will respect us; and let us so live that all nations will *recognize in the typical American the ideal individual citizen of the world for all the centuries to come.*

PLATFORM FOR SCIENTIFIC, SOUND AND WISE FINANCIAL AND CURRENCY SYSTEM.

We demand that the reserves in our banks shall be in gold coin, and shall be ample to prove their credits and to protect their millions of depositors who have $12,000,000,000 *to their credit.*

We demand that the depositors shall have the option of taking their credit in the form of a book credit subject to check, or in the form of a current credit in bank-notes.

We assert that the masses, who use currency instead of checks, are entitled to have just as economical and cheap credits as the rich and powerful who keep bank accounts.

We demand that the currency of the country shall be related to and be based upon the products of our labour, the consumable commodities of the country, the things we eat, wear and use, and that our currency shall be measured in gold by currently redeeming it in gold coin. Such a currency is absolutely sound, because as good as gold, and comes into existence with purchase and production, and disappears with sales and consumption. Therefore, it always perfectly responds to the ever varying demands of trade.

We demand such a reform of the financial and currency practices of the United States as will save to the labourers, manufacturers and merchants the $150,000,000 per annum now wasted because our reserves and banking capital are uselessly employed.

In support of these propositions, we cite the following illustrations of where bank deposits and bank notes are interchangeable.

	Deposits.	Note Issues.
The Bank of France..........	$100,000,000	$1,000,000,000
11 Scotch Banks	500,000,000	40,000,000
35 Canadian Banks	600,000,000	75,000,000
510 New England Banks in Suffolk System	25,000,000	55,000,000

We assert that a credit currency, currently redeemed in gold coin, does not mean expansion and cannot lead to inflation; and in support of this proposition we submit the following illustrations:

Country.	Permissible Issue.	Actual Issue.
France	$1,000,000,000	$929,000,000
Canada	94,000,000	83,000,000
Scotland	148,000,000	40,000,000
First United States Bank	10,000,000	5,000,000
Second United States Bank	35,000,000	23,000,000
Bank of Indiana	6,600,000	4,900,000
Bank of Iowa	2,096,000	1,400,000
New England Suffolk System	123,000,000	55,000,000

LIFE OF A CREDIT NOTE VS. A BOND SECURED NOTE.

The life of a true credit note or the time it remains out in circulation is absolute proof, indeed, mathematical proof, that these notes are always just adequate to and never in excess of the requirements of trade. To illustrate this fact, we submit the experience of the Scotch and Canadian banks, and of New England banks clearing through the Suffolk Bank at Boston, and the record made by the National Banking system as follows:

	Days.
The note of the Scotch banking system remains out	18
The note of the Canadian banking system remains out	30
The note of the New England (Suffolk) banking system remained out only	45
The average life of our National bank bond-secured note is just the life of the paper upon which it is printed	730

Therefore, it is demonstrated that the life of our bond-secured note bears no relation to the business of the country.

We assert that it is wholly immaterial whether there is only one central bank of issue, as in France, or eleven banks of issue with branches, as in Scotland, or thirty-five banks of issue, with sixteen hundred branches, as in Canada, or whether there are five hundred and fifteen independent individual banks of issue, as there were in New England before the war, or five thousand, or twenty-five thousand banks of issue; and that it is wholly immaterial whether each bank of issue has $25,000 capital, or $250,000 capital, or $2,500,000 capital, or $25,000,000 of capital—the principle is the same.

We assert that the law controlling the movement of credit, constantly measured in gold, our standard of value, unless unwisely interfered with by some foolish device of man, is as certain and absolute in its operation as the law of gravitation or any other law of God.

The absolute proof of this statement is found in the daily redemption of checks and drafts and cashier's checks payable to order; and the operation of this great law would not be suspended if the cashier's checks should be made payable to bearer, a current credit, and the customers of our banks should take these cashier's checks because they desired a current credit, in preference to using their own checks which are not current but only pass by endorsement.

We base this declaration upon natural law and the experience of all the civilized nations of the world.

SHOULD DEPOSITORS BE LEFT WITH POWER TO BREAK A BANK?

THE bank commission appointed by Governor Hughes of New York has recommended that trust companies carry a reserve which amounts practically to the percentage imposed on National banks. A complete synopsis of the commission's report was published in *The Financier* last week, and bankers the country over are discussing with a great deal of interest the various features embodied therein. Sentiment seems to be almost wholly in favour of the enforcement of the commission's recommendation, and it is quite likely that the legislature will pay serious attention to it. No objection can be made to this, but a point which was not touched on, and which probably is a new feature in the case, is whether state institutions, under conditions of partial embarrassment due to outside causes ought to be permitted to take advantage of provisions conferred on savings banks in the way of restrictions on depositors who, by reason of fear or through other motives, attempt to withdraw their entire balances on demand. It need not be repeated that no bank in the country can pay its entire deposits on instant demand. We will except here probably a half dozen banks which may have facilities for meeting such calls, but, as a rule, it is well known that banks simply take depositors' money and put the larger part of it to good use in commercial channels.

The recent run on trust companies and other state institutions in New York was inspired wholly by fear—not fear particularly of the institutions attacked, but of banks in general, as was evidenced by the refusal of the depositors who withdrew their money from one bank to put it into another. In other words, the bank panic was a mere stampede on the part of frightened people to get their money out and lock it up. Now, as long as it is conceded that a bank, by the very reason of its business, cannot be expected to pay without previous notice every cent which it owes, why should the privilege be given depositors to make such demand? To begin with, such a course means the certain closing of doors, with expensive receivership proceedings, or long drawn out reorganization plans in the end, and the action of people who have lost their heads not only jeopardizes the whole financial fabric, but injures personally every other depositor in the bank. In other words, is it not fair that a bank or trust company, as long as it is solvent in every respect, be given the privilege of serving notice on its depositors under conditions such as outlined above, that it will not attempt to meet their demands in a body, but that it shall be given the opportunity in the way of a definite time extension of preparing to meet demands if they are made after the lapse of this interval? No one looks on a savings bank as insolvent because it enforces this rule and no one ought to regard a commercial bank—which differs only in the nature of its loans from a savings bank—as being insolvent because it acts in a similar manner as regards deposits. We are aware that the differences which exist in the nature of the business of the two classes of institutions might be offered as an objection, but to cite a concrete example, does anybody suppose that the Knickerbocker Trust Company, of this city, would have closed its doors had it been given the opportunity of two weeks in which to get together its resources against the demand of the depositors? The other trust companies on which runs were made saved themselves by resorting to a method of delay which amounted practically to a suspension of payment, and as soon as the bank panic subsided they were enabled to go on with the ordinary routine of business. We have no plan to suggest whereby such a rule can be put into force legally, but we desire simply to point out that if some privilege of this sort was open to financial institutions in times like those of last October, there would be fewer bank panics, and of necessity fewer bank runs and closed banks. The percentage of deposits which might be authorized for withdrawal without previous notice could be fixed easily, and the circumstance under which a bank might appeal for the enforcement of the rule could be left to some designated authority, as, for instance, the Governor or the Bank Superintendent of the State.—*The Financier* (N.Y.).

AN OLD-TIME BANK ROBBERY EXPLAINED.

BY

PERCY ST. CLAIR HAMILTON.

SOMEWHERE in the early days of the first bank established in Nova Scotia (or "Novascotia," as they called it at that time) there occurred the only successful bank burglary which ever happened in that province. For various reasons very little was ever made public about the affair, no arrests were made, and the present story—over sixty years later—is the first published explanation of how it was done.

Away back in the early forties the private banking house of Cogswell & Co. still continued to do a large business in Halifax, although the recently incorporated Bank of Nova Scotia was looked upon as the saviour of the people from the "grasp of a monopoly." The firm of Cogswell & Co. was composed of some half dozen or so of wealthy men. Their bank had no charter, but they issued notes redeemable in gold or silver or province paper, just as they saw fit. In other words, the bankers and their customers decided how the notes should be redeemed. Exactly how much actual money they had on hand to make their notes good was a matter only known to the firm and their officials. There was no awkward Banking Act, demanding that the public should be taken into confidence in such matters, at that time. Still it was believed that in the strong room of the bank were stores of gold which would make Aladdin's cache look like a cheap chop house. People held their breath as they passed the bank and whispered in awe struck way of the vastness of the treasure in there. All this helped to establish public confidence in the notes issued by Cogswell & Co., without, what sporty people would call, any "show down."

One morning the community received a shock. There was a rumour that the bank had been robbed. A number of bags of coin, bearing the name of the banking house, had been found behind a pile of stones on a wharf on Upper Water Street, and several more bags had been dropped behind the shutter of a shop further up in the same neighbourhood. It looked as though the thief had taken away more than he could carry. It was surmised that the culprit had taken the Cunard line steamer for England, as it had sailed during the night. There were no railways then and this was practically the only possible means of escape. Of course there was no such thing as transatlantic cable then, and nothing could be done.

The care of the city at night at that time was entrusted to a few harmless old chaps called night watchmen, distinct from the day policemen. Their chief occupation was to potter about the streets armed with two rattles. One was of wood, and this they sounded at intervals of each hour at specified corners, following the din by announcing in a loud, melancholy voice, "Eleven o'clock! All's we-e-ell-ell!" varying the hour, of course, as it came round. This had the advantage of conveying such information to those who were awakened by it as is now handed out by striking clocks. It also served the purpose of the modern tell-tale clock, as it showed that the crier was awake and going over his beat. The other rattle was of iron, a more terrifying affair, and was used to arouse the citizens to a fire. The "bloods" of the time, returning from having dined over well, used to amuse themselves by catching one of the old watchmen (generally discharged soldiers), taking his rattles away from him and imprisoning him by turning over him a sentry box, similar to the military sentry box, such as were placed at intervals through the city to afford shelter to the old chaps when it rained or snowed.

It will thus be seen that, with such a system of guardianship, it would not be very difficult for a burglary to be committed, and people depended more upon strong doors and iron barred windows than upon the protection of the watch. The Cogswell Bank, afterwards the home of the Halifax Banking Company, was a strong, prison-like grey stone fortress at the head of a wharf. It had not been forced, but the door had simply been unlocked, and the vault opened in the same way, with a key. Yet the keys of the bank were in the custody of the usual bank officials—not very numerous—and nobody was missing. Whatever investigation was made was a private one, the results of which the members of the firm kept to themselves. They declined to ask for or accept police help, and refused any information as to the extent of their loss. They continued to do business as if nothing had happened, and, as they seemed to have all the cash necessary to meet demands, confidence was not impaired and the matter was soon forgotten.

Many years after, in the latter seventies, the sequel was told, when the late Garret Cotter was a staid and elderly man, the City Marshal (Chief of Police) of Halifax. He was walking one winter afternoon out near what is now the public gardens. Some boys were skating in the place then known as Griffin's Pond. Cotter stopped to look on at the sport, when another old man, evidently a stranger, came along, stopped beside Cotter and entered into conversation with him. The visitor's accent pronounced him an Englishman. In a few minutes each told the other who he was. The stranger was merely passing through, but he told Cotter that at one time he had been a guard in an English penitentiary. This led to comparing notes about crime and criminals, and the stranger enquired if there had not been a bank robbed in Halifax at one time. The famous robbery of the Bank of Nova Scotia during the progress of Barnum's circus parade, was then but a year or two old, and Cotter told him of that.

No, that could not be the one; it must have been many years before. Cotter had been a policeman (not a watchman) at the time of the old bank robbery, thirty years before, and recalled that occurrence.

The stranger then said that one day he was in charge of a gang of men at work in some outside part of the prison in England when he overheard a conversation between two convicts. They were each telling the other of the great chance of their lives that they had missed. Not with repentance, but with regret, they bemoaned their failure. One of them related how he had gone out to Halifax, in Nova Scotia, taken wax impressions of the locks in a bank supposed to have lots of money in it. He did not say how, but he intimated that the small staff and lax work made the job quite easy. Then he went all the way back to England, made his keys from the wax impressions, went out again to Halifax, unlocked the bank and its strong room, took all the bags of coin that he could carry, concealed under a big cloak, and went off to the steamer. He found his load so heavy that twice he had to get clear of some of it. He got away safely, but when he came to count his money he almost fell dead with mortification. Whether there really was any gold in the strong room or not he could not tell, but he found that what he had with him was entirely silver, and instead of being thousands as he had hoped, he only had a hundred dollars or so as a reward for months of work and two trips across the Atlantic.

The stranger's story exactly fitted in with the circumstances as Mr. Cotter remembered them.

"Was it not possible that the stranger was the old-time robber himself?" I asked, after the venerable City Marshal, in a reminiscent mood, told me the story one evening.

"I don't think so," replied Mr. Cotter. "We walked down town together that afternoon, and I saw a good deal of him during the day or two he was in the city. He showed me his pension or discharge papers from the penitentiary, proving that he had been an official there for many years."

BOOKS ON LEGAL SUBJECTS AND SUBJECTS RELATED TO BANKING

APPROVED BY THE JOURNAL QUESTIONS COMMITTEE.

Maclaren's "Banks and Banking." The Bank Act, with Notes and Discussions; the law relating to Cheques, Warehouse Receipts, Bills of Lading, etc. 1901.

Maclaren's "Bills, Notes and Cheques." The Bills of Exchange Act, 1890, Canada, and the Amending Act of 1891, with Notes and Illustrations from Canadian, English and American Decisions, and references to Ancient and Modern French Law. By J. J. Maclaren, Q.C., D.C.L., Justice of the Ontario Court of Appeal. Third edition, 1904. Price, $5.50.

Hart's "Law of Banking." Being an able summary of the Law of Banks, by Herbert Hart, LL.D. Second Edition enlarged. 1906. 1228 pages. Cloth $8.00; hf. cf. $9.00

Paget's "Law of Banking." Being an able summary of the Law of Cheques and the other peculiarities of the Bankers' position. 1904. Price, $3.75.

Rae's "Country Banker." His Clients, Cares and Work. Fifth edition. Price, $1.00, post paid.

Gilbart: "History, Principles and Practice of Banking." Two vols. Price, $3.00.

Subscribers to the Journal may obtain the above books at a discount of 10 per cent. from The Carswell Company, Limited, Law Book Publishers, Toronto.

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EDITORIAL NOTES

Mexican Bank Currency.

Mexico is agitating for reform in the bank currency of the country, and banking and financial interests are reported as wrestling with faults in the existing system with a unity of purpose strangely lacking among the practical people of the United States. There are about twenty banks of issue in the Mexican republic, and hitherto there has been no uniformity in either the size, colour, quality of paper, or style of engraving on the notes. One of the reforms proposed is to make all the bank notes of identical general style. An arrangement may also be made by which the redemption of bank notes at par will become the obligation of all banks. It is proposed, in addition that all the banks of issue in the republic will be held, as in Canada, responsible for the redemption of the notes of failed banks. It is expected that these measures will serve not only to facilitate commercial transactions, but to lessen the danger of counterfeiting, avoiding discounts, and giving a uniform value to all paper money issued in Mexico.

Intervention of Banks.

The chairman of the Bank of British North America, in some remarks made at the annual meeting of the bank last month, said of the intervention of certain banks in the affairs of the Sovereign Bank:

"We felt that it was our duty to join with them (the other Canadian banks) in taking the steps necessary to prevent the suspension of payment. At the same time we feel that it is an open question whether it is wise for other banks thus to intervene and ward off the consequence of unsound banking. This is the second time within fifteen months that we have been invited to take part in rendering such assistance, and though we have consented to do so under guidance from strong local opinion, we are not convinced that such action is for the real good of the country. It appears to us that such intervention, thus repeated, is sure to weaken the sense of responsibility amongst those who direct and manage banks everywhere, and also that it must tend to encourage carelessness amongst depositors and the community generally."

While it is undoubtedly true that the action of the bankers who rallied to the rescue of the depositors of the Sovereign Bank was not devoid of self-interest, and that their intervention was partly due to the desire to avert a possible panic, no one will be disposed to quarrel with their motives. But if the depositors in Canadian banks should, as a result of the happenings in the case of the Ontario and Sovereign banks, become imbued with a belief that the selection of a Canadian chartered bank in which to lodge savings is of no account, that the united banks will *always* protect "the poor depositors" from loss, there will at some future time be a day of reckoning for depositors not likely to be forgotten for years.

The Chronicle of Montreal is responsible for the following timely and sound remarks upon the mischievous working of such a notion:

"It is one of the strongest objections against the deposit-guarantee folly with which our neighbours in the United States are now experimenting, that it puts the incompetent and dishonest banker on the same footing as the honest and capable one in the matter of attraction of deposits, and so the former gets his hands on much money that he would not otherwise. And when that happens in any country the country suffers for it."

What is thought of the guarantee of deposits, by a leading banker in the United States, is editorially set forth in this issue of the JOURNAL.

Forgan scores Bryan.

Upon the subject of insurance of bank deposits, Mr. James B. Forgan, president of the First National Bank, Chicago, does not hesitate to express himself in strong terms, and his numerous Canadian fellow-workers in the banking field of the seventies will enjoy the following quotation from a letter sent by the doughty Scotchman to the Hon. Willian J. Bryan:

"The good will of the First National Bank of Chicago, over which I have the honour to preside, has been valued by the discriminating public for many years at about $150 per share. By this I mean that its shares have sold on the market for that amount in excess of their intrinsic book value. It has a record of forty-five years of which the public can judge. Its record and its reputation belong to it just as yours belong to you. On them is based the value of its good will, which, as stated, a discriminating public places at fifty per cent. more than the original par value of its stock.

"Its stock is now largely owned by estates of deceased persons, trusts for widows and orphans and other beneficiaries under wills, etc. Many of these have invested in the stock at market price; paying $150 per share for the good will. Am I to be blamed as selfish if, as their paid representative, I argue against the enactment of legislation that would despoil them of their vested rights and property? Nor, let me here state, have they received any large or undue returns on their investment.

"For many years the bank has paid about six per cent. on the invested capital belonging to its shareholders and about four per cent. on the market value of its stock. The interests of the depositors have never been lost sight of nor have they been sacrificed to those of the shareholders. As deposits have grown the invested capital has been increased correspondingly.

"In using the First National Bank of Chicago for illustration I do so only because of my direct knowledge of its record and its figures. My arguments will apply with equal force to the strong and reputable banks—large and small—all over the country, and of such are the great majority. They all figure on their records, their reputations and their standing in public estimation as among their most valuable assets.

"Quite irrelevantly, it seems to me, you say, 'The time is a little inopportune for Mr. Forgan to speak so lightly of the interests of the depositors.' You do not quote the 'light' remarks to which you refer. I defy you to quote anything I have ever said that could be so construed or designated. What I contend for is a square deal all round, for the banks, for the depositors, for the shareholders and for the public. It will be found that what is best for one will ultimately be best for all, their interests are so interwoven and so dependent upon each other.

"To remove the necessity of discrimination by the public as to where they as individuals will deposit their money would prove a severe blow to the entire fabric of credit and confidence which lies at the foundation of all business intercourse. Under a democracy such as ours banking must be free to all.

"By providing a government guarantee for deposits the rascal is invited to become a banker and to cover himself with a mantle of credit which otherwise it would be quite impossible for him to acquire and which is provided for him by and at the expense of all the good banks in the country. This would not be a square deal. It would put dishonesty and reckless banking at a premium and remove from the banker all ambition to excel in his profession and to acquire that good name which Solomon says 'is rather to be chosen than great riches.'

"You suggest the adoption of the words put into my mouth, 'make all banks safe,' as a party slogan or campaign cry. Were such a thing possible, it would be a highly desirable thing to accomplish and the slogan would be a good one. But it is wholly impractical, and to attempt it by passing a law that would establish an artificial credit for rascals, enabling them to offer all sorts of specious inducements to the public for deposits, and thus create illegitimate and impossible competition for sound and conservative bankers, would reduce the entire banking system of the country to a level very much below that on which it is now established.

"No honest man, with ordinary ability and any business ambition, would go into the business or remain in it if he could get out. The proposal is abhorrent to business sense as well as to justice and equity and is opposed to the principles and laws of political economy. I would suggest that you might find a better campaign slogan, for with the business men of the country, who understand such matters and who control the bulk of the bank deposits, such a slogan is likely to prove as fallacious and inefficacious as the 'free silver at the ratio of 16 to 1' slogan did in your last campaign."

Canada being well advertised

The recent return visit to Canada of Mr. A. J. Dawson, the well known writer on foreign and colonial affairs, is to be followed by the establishment of a new colonial feature of the London *Standard,* with which newspaper Mr. Dawson is connected. All classes of Canadians will await the outcome of Mr. Dawson's enterprise with much interest, knowing his earnestness of purpose and deep-rooted belief in the Dominion of Canada.

The Ottawa *Journal,* in an editorial reference to the enterprise of the London *Standard,* says:

"The weekly will be a separate production devoted wholly to colonial affairs, but at the same time forming part of the daily issue of the *Standard,* that is to say, it is not to be a separate and distinct issue like the London *Times* Weekly edition, but will be sent out with the daily *Standard.* In other words (assuming for the purpose of illustration), that the day of publication of the '*Standard of Empire*' is Saturday, and that the circulation of the daily *Standard* would carry with it to its subscribers and buyers all over the world a copy of the '*Standard of the Empire.*' Thus the circulation of the weekly would be a quarter of a million copies or more. The new publication is to have a special Canadian Cable Department and special Canadian contributions by the best known public men of the day. Such a paper will be simply invaluable as an advertiser of Canada. The Federal and Provincial Governments of the Dominion should take advantage of the opportunity offered by the issue of this notable newspaper undertaking to see that Canada is properly represented in its pages. It will reach a class of people never yet touched by Canada's immigration machinery, the class with capital and industrial or business training who, since the peace with the revolted American colonies after the War of Independence, have been flocking to American shores and building up the United States with their money, their experience and their brains, and consequently afford a medium that the Canadian Immigration authorities should avail themselves of to the lasting benefit of all the interests concerned."

Object Lessons.

In reviewing the causes of and suggesting remedies for the late financial troubles in the United States, some of the banking magazines published in that country are dwelling upon the growth of popular distrust of the efficacy of bank examinations. Complaint is made that bank failures are altogether too common, and that nothing has ever happened so demoralizing to depositors and so injurious to banks and to business interests as placing restrictions on customers getting their money when needed. The editor of a Texas paper says that thousands of farmers in that State "swear that they will never put another dollar in a bank."

This distrust of banks is likely to become chronic and more or less general, if no check is placed upon unsound banking.

The vice-president of the Shawmut National Bank of Boston, in an address delivered to business men during last month, after dealing with recent financial events and the various proposals for banking and currency reform, says:

> "Whatever the final verdict may be, whether for a central bank or for an issue of currency by the present banking institutions through the agency of clearing-house districts or otherwise, the machinery should remain in the hands of the business community and not be entrusted to government officials. The banks are simply the agents or tools of the business men. The directors of the banks are business men. The banks are dependent on the good-will of business men for their success. Government officials should see that the affairs of the banks are honestly administered and the laws obeyed. There the government duties should begin and end."

Editorial comment upon the address in question is to the effect that any proposals having for their object the regulation of bank note supply and other matters by the Secretary of the Treasury and a board of Government officials are essentially wrong. The proposals are condemned because Government officers do not have that close relation to business which makes it possible for them to regulate financial affairs. One paper boldly declares that regulations respecting banking can be properly framed by bankers, and by bankers only, as that, by reason of their position, they have that knowledge which the Government officials must invariably lack.

Words of Warning.

A weekly financial circular,issued in the English metropolis, deplores the tendency of some of our Canadian papers to represent London as having an insatiable appetite for all Canadian securities, and adds the following warning words:

"This appetite by no means exists, and we cannot too strongly urge Canada to go slowly with their issues on this market, and to offer London nothing but first class securities, in order to avoid the possibility of the failure of an issue which might check for some time the confidence which is being so well established in Canadian investments."

The natural ambition to "boost" our common country should not render us blind to the importance of maintaining its credit and reputation at home and abroad. The desire of our cities and towns for all "modern improvements" is not peculiar to Canada. Even old London has occasionally been extravagant in the expenditure of the enormous revenue derived from its millions of inhabitants. But when a complaint comes from across the sea that we are wanting in economy and foresight, and that the British investor is beginning to cavil at some of the so-called securities offered to them by Canadians, it is well to heed the warning conveyed in the circular of the Canadian Agency of London, England.

Journal Questions.

Referring to a disposition evinced by some of our subscribers to ask for opinions from the Journal Questions Committee upon cases of actual occurrence in the daily business of their banks which should be referred to legal advisors, the Committee ask for our editorial attention to a request for an opinion upon the recent conviction of a man for forging an endorsement on a cheque under peculiar circumstances. The reply of the Journal Questions Committee is as follows: "We do not think that the question submitted is one to be answered by your Committee, as the court has pronounced judgment thereon. We do not think the prisoner committed forgery, but, when considering the case, we are reminded of the story of the Irish jury who found a prisoner guilty of murder—even after the supposedly murdered man appeared in court. They justified their verdict by stating that the prisoner deserved to be hanged anyway."

Delicious.

The Earl of Wemyss deserves a vote of thanks for assisting to remove the popular impression of the House of Lords as a place where no mirth prevails and general dullness reigns. A more delicious bit of satire than the bill entitled, "An Act to transfer all private property to a Commission," has seldom, if ever, been introduced to any assembly. It is a clever exposure of the folly of people who are for ever and always clamouring for Government interference with private property, vested rights, capital, skill, and even enterprise.

The proposed measure will find delighted readers even in Canada where, sad to say, many individuals might be found to favour the bill presented by this jocular nobleman, provided they could secure a place on the Commission to manage all "private property" for "the public good."

The text of the measure presented to the House of Lords is as follows. It will be noted that although "short and sweet as a donkey's gallop," it is calculated to make even a Socialist laugh:

> Land and Property Transfer. H. L.
>
> A Bill entitled an Act to transfer all private property to a commission.
>
> Whereas land, which was the common property of the human race, hase been reclaimed from its natural wild state, acquired, and dealt with as private property, under the protection of the State:
>
> And whereas under this system of private ownership great evils have arisen:
>
> And whereas private property in trade, manufactures, and commerce has been sanctioned under State protection, although the principle of collectivism, or a collection of votes with a view to the collection of other people's property, has been adopted by high legal authority:
>
> And whereas it is desirable that all the so-called instruments of production, as well as land and all Church property, should be in the hands of the Government of the day.
>
> Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—
>
> 1. Property of all kinds, now private and State protected, shall, at the end of 14 years, be transferred to a permanent Commission, who shall manage and distribute the said property in the interests of Government and for the public good.
>
> 2. This Act may be cited as the Land and Property Transfer Act, 1908.

Our Neighbours' Financial Worries.

It is interesting to note how the United States in an effort to avoid the financial ills they have, are in a fair way of acquiring others that are worse. The following extract from a circular letter of an Illinois banker to his *confrères* in that State speaks for itself:

"The Aldrich Bill has passed the Senate and "is now before the Committee on Banking and Currency of "Congress.

"This measure, as it has been amended, is a dangerous "bill. Instead of giving us an emergency currency of $500,-"000,000 to meet the constant growing demands of trade, it "takes from the reserve cities $221,143,179 and ties up in the "reserves of the country $571,265,496, of which amount $147,-"428,736 shall be in bond securities, which precludes the pos-"sibility of those bonds being used to secure emergency circu-"lation.

"The tax on circulation is from 6 per cent. to 9 per cent. "per annum, the notes are a special form and any bank putting "them out would be immediately discredited. It makes a loan "office of the Secretary of the Treasury Department, granting "to the Secretary such power that he may at his discretion "prevent the country banks, or banks of any district, from "issuing these notes and grant the privilege to banking centres "he may favour.

"*It prohibits the bank from loaning money to any cor-"poration or association with which its directors are concerned, "as officers or directors, and any director who knows of, or "consents to, such loan shall be imprisoned not less than one "nor more than five years.*

"If this measure becomes a law it means a wholesale "resignation of national bank directors, thus depriving the "banks of many of their best men, or else thousands of national "banks must go out of the system."

Too little legislation is not a thing that we suffer from in any part of this Continent. J. K.

ROOSEVELT.

A dash of Lord Cromer, but not very much of him,
A wee bit of Lincoln, but only a touch of him.
Kitchener, Bismarck, Germany's Will,
Chamberlain, Jupiter, Buffalo Bill.

THE PASS-BOOK AND FORGERY.

THE position of Canada in the domain of law is a very interesting one from many points of view. Not only have we very extensively borrowed the principles of our laws from those of older systems, but every day in interpreting those principles are judgments of our courts assisted by, and even based upon those of the Courts of England and of the United States. As far as the law of the Province of Quebec goes, that statement can be greatly widened. The main body of the civil law of France, even in its present development, is as familiar in Quebec as in its native halls. And more than that: in their catholicity our tribunals not only do not hesitate to be aided by England, France and the United States, by ancient Rome and by modern Belgium; but they have even paused to consider the principles of Germany, and, in one case at least, have ventured as far as Japan. A prophet may see in this state of affairs the beginning of a movement which may yet unite in one harmonious system the opposite virtues of the civil and the common law, showing the essential concord of the latter's abstract and universal scope with the former's individual sturdiness and solidity. Less comprehensive, indeed, is the stretch of the law of the rest of Canada; but even there and in those branches of the law which we all share together, the courts of this Dominion act as mediators, endeavouring to bring together, or at least to examine together upon a common ground the broader principles of English and American legal development. This attitude and the differences which it regards are admirably seen in connection with the subject of the present paper.

The legal relations between a bank and its customer with respect to the Pass-Book have not yet been satisfactorily settled for us. Those relations come under discussion, particularly in the case of a forgery of the customer's signature, for which it may be that neither party can be held directly responsible; but which has led the bank to make payments which the customer never really authorized. In such a case, under the general law, unless there were some reason to the contrary, the bank would be liable. Such a legal reason would be, in the ordinary course of events, some carelessness on the part of the customer, without which the bank would never have made the unauthorized payments. But the question has been raised by the banks whether under practical conditions this legal reason is not nearly always in evidence in these cases. The custom of having a pass-book, in which are entered all the transactions between the two parties, the custom of handing this pass-book to the depositor on request, with his paid cheques for purposes of comparison, and, lastly, the custom of requiring the depositor at stated intervals to sign, on receipt of the cheques, a voucher of the correctness of the entries in the pass-book, have, it is contended, brought about a contractual relationship between the parties much more favourable to the bank than the accidental relations which may or may not have been created by some exceptional carelessness of the other party. With respect to the last consideration, while formally it might appear as the most important point of the three, it is not really entitled to so much regard; as, in fact, the signed declaration is generally made by a clerk and under circumstances which prevent any adequate examination of the cheques, in order directly to establish their genuineness. But confining ourselves mainly to the first two points, it may be said that the contention of the banks has been maintained with approval by the leading courts and jurists of the United States; but that the courts of England, in spite of a growing sentiment in favour of it, have not yet reached so far. And our own courts for some time have hesitated, and, it may be said, are still hesitating as to which attitude to favour. Before, therefore, we can enquire into our own law upon the subject, it will be necessary to examine and compare the doctrines which obtain in England and in the United States.

"The present position of the pass-book," says Sir John Paget, the leading English authority on the subject, "is, perhaps, the most unsatisfactory thing in the whole region of English Banking Law. Its proper function is to constitute a conclusive, unquestionable record of the transactions between banker and customer, and it should be recognized as such. After full opportunity of examination on the part of the customer, all entries, at least to his debit, ought to be final and not liable to be subsequently re-opened, at any rate not to the detriment of the banker."

But a thorough scrutiny of the cases leads him to acknowledge that however desirable these principles may be, they are not yet the law of England.

It had been stated as far back as in 1816 that, "For the purpose of having the pass-book made up by the bankers from their own books of account, the customer returns it to them from time to time, as he sees fit; and the proper entries being made by them up to the date on which it is left for that purpose, they deliver it again to the customer, who thereupon examines it, and if there appear any error or omission, brings or sends it back to be rectified, or, if not, his silence is regarded as an admission that the entries are correct." *

Nine years afterwards, it was held that a certain firm of bankers which had credited the customer with moneys to which he was never entitled, was no longer able to correct the mistake, since it had induced him to act on the showing of the book, and to spend much more than he would have otherwise spent. But, if there had been no change of position, rectification could have been made; the law being simply that, if there were nothing to the contrary, whatever stood in the books to the knowledge of the customer against the bank would bind it, while whatever stood in favour of the bank would be binding on the customer. From these and similar cases, which Sir John Paget goes into at length, there gradually arose the doctrine that there was a stated or settled account on each occasion when a balanced statement was received by the customer and returned by him without remark,— a definite closing up of the whole matter beyond question except for fraud. But this doctrine had hardly reached the dignity of an axiom before it was considerably shaken by two very important cases, both finally determined in the same year, 1891. The first was the well known case of Vagliano *vs.* the Bank of England.† Here the Court of Appeal seems to have thought that an implied contract between a bank and its customer, as to the settlement of account by delivery and silent reception of the pass-book, was not a matter of legal inference, but, if it existed, was a matter of custom to be proved by the bank as evidence; and in this instance, no such evidence had been made. The general judgment of the Court of Appeals was reversed by the House of Lords, but upon another point; and all that can be got from the latter judgment are some isolated passages which seem to recognize that the pass-book must have some legal effect between the parties, but precisely what effect is left quite unconsidered. So far as this case is concerned, therefore, there are, as pointed out by Sir John Paget, two deductions to be drawn. The first is that, if the pass-book be regarded as a stated account, and if there be a duty on the part of the customer with respect to it, the omission of that duty will constitute negligence, sufficient to estop the customer from re-opening the account to the detriment of the bank. The second deduction is, however, that in England, until it has been established by evidence that there is a general business custom involved, even he who has accepted the pass-book without comment or objection may subsequently set up forgery of the cheques which have been noted in the book.

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* Clayton's case, I. Merivale, pp. 530 and 535.

† 23 Q.B.D., p. 243; and 1891 A.C. 107.

Still more unfavourable from the bank's point of view was the second case.† Here the depositor sent, week by week, for his bank book and his cheques, giving a receipt for the latter, and ticking off the bank's payments as indicated in the former. It turned out that some of these cheques were forged. The bank contended that the customer's conduct had justified it in supposing that the pass-book was examined, and found correct; and that the bank could infer from these facts an admission that all the signatures were his, and an authorization and inducement to go on paying. To this argument one of the judges in the case answered that in all probability, neither party made any real examination of the book, and that it would be unfair to suppose that either governed his conduct according to its contents. This answer was more than the argument needed, for in the ordinary course of events it would not be reasonable to suppose that an acquiescence in the payment of a

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* Chatterton *vs.* The London & County Bank, See Paget Law of Banking, p. 120.

present forgery could possibly bind one to consent to future forgeries quite unforeseen. But, unfortunately for the banks, the court's considerations, if they are to stand, are sufficient to answer the much stronger argument that the customer by silently accepting the entries in his pass-book as they stood, to say nothing of ticking off those entries and receipting of cheques, had given the bank to understand that he considered the account settled, in such a way that once the position of the parties with regard to the account had been changed, by any action on either side, the circumstances as to the various entries could no longer be re-opened to the detriment of the party who had acted.

Only on some such grounds as these can the making, the handing over, and the return of the pass-book be anything but the meaningless ritual to which the judgments in this case seem to have reduced it. There are, indeed, reasons connected with the circumstances of these judgments for questioning the value of this case as a final authority. It was twice heard; but the first hearing and the appeals in connexion with it, while giving rise to many expressions of judicial opinion, led to no judgment; and the second hearing was never reconsidered. More serious still, in none of its stages was the case officially reported. In the meantime, however, no important case involving precisely the same point has arisen in England to allow of another and, perhaps, more satisfactory exposition of the law. The nearest approach to it was a forgery case reported some fifteen months ago,* but here the special facts had much more to do with the decision than the law. Three directors of a limited company, one of whom was the chairman, had appointed the son of the latter as secretary. Some years before, the son had forged his father's name to a large cheque, but the matter had been hushed up and he had since then lived apparently a blameless life. Upon his appointment he took into his charge all the books of the company, including the cheque book and pass-book, and immediately began a series of forgeries against the company's funds in the bank. In order that the forgeries might not be detected he substituted, whenever the original was likely to be seen, a false pass-book, which contained no entries of the forged bills. The directors used to check their financial statements by reference to the pass-book, by which they governed their conduct. But this was not the pass-book which the bank received again, and from the receipt of which without comment the bank might infer ratification. Nevertheless, had the point been made as to the secretary's power to bind his directors by what the bank might suppose to be a final assent to the statements in the real pass-book, there would have been a clear issue upon the nature and effect of the book. The court indeed remarked, "I think that the relation of bankers and customers does involve a duty on the part of the customer." But the only points urged by the bank were, firstly, negligence in the appointment as secretary of a former forger; secondly, the excessive degree of confidence placed in him, and thirdly, some verbal and indefinite statements of one of the directors which were said to constitute a representation to the bank of the correctness of the bank's ledger. None of the points appealed to the judge, who held accordingly that the directors had done nothing to estop them from recovering from the bank the amount of the forged cheques. This case, therefore, cannot be taken as determining anything with regard to the pass-book.

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* Lewes Sanitary Steam Laundry Co. *vs.* Barclay & Co., XCV, L.T. 444.

More logical, and on the whole, more satisfactory is in this respect the tendency of the American courts. It is a development of the earlier English authorities referred to at the beginning of this paper. Laying down at the outset that the sending of his pass-book to the bank is a demand by the customer to know what the bank asserts to be the state of his account, and that the bank's return of the book with its statement therein, accompanied by the paid cheques and vouchers, amounts to a request by the bank that he examine the book and, if he have any objections, report them without unreasonable delay; the Supreme Court of the United States * has declared that the customer brings into being by his own act an obligation on his part to examine the pass-book and to notify the bank, as soon as he can, of any errors there may be in it; and that if he fail to do so, with the cheques and all particulars at his disposal, and if the bank be thereby misled to its prejudice, he

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* Leather Mnfrs. Bank *vs.* Morgan, 117 U.S. 96.

cannot afterwards dispute the correctness of the balance shown by the pass-book. More than this, the depositor who thus undertakes a contractual duty towards the bank does not so discharge it as to acquit himself from responsibility, if he delegate to a clerk the examination of his written up pass-book and paid cheques, and if it turn out that without his knowledge the clerk committed forgery, by raising the amount of some of the cheques, and that the bank was thereby misled.

The principle is an eminently reasonable one. With all the records at his command the depositor has every opportunity to arrive at the true state of affairs. With such opportunities he cannot attempt to hold the bank to any obligations arising out of that state of affairs unless he examine it thoroughly, and communicate to the bank all the information that he may discover and that might enable it to take steps of precaution. Of course if, after an efficient examination of the pass-book and of the cheques returned to him, the customer be still unable by reason of the skilful character of the work to detect some of the cheques as forged, there is nothing in the doctrine as thus expressed to go so far as to say that his honest failure to detect will saddle him with the results of the forgery. Here we see a divergence from the earlier and more rigid English view of the stated account. The American doctrine as now being explained, is simply that by the custom of his dealings with the bank in this connexion, the depositor takes upon himself the obligation to examine, an obligation which he must thoroughly discharge before he can exercise his claim against the bank. If by the fault of its customer the bank be not put in the position to take all proper measures, then it should be entitled to hold the customer to the pass-book as a final and accepted account. Such is the doctrine of the Supreme Court of the United States.

But that doctrine has been considerably departed from in its practical effect by a recent judgment of the Supreme Court of the State of New York.* Here the court admitted to the full the duty of the depositor to examine his pass-book and vouchers, but it took quite a different view of what should be the consequence of the depositor's neglect to fulfil this duty.

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* Critten *vs.* the Chemical National Bank, 171 N.Y.R. 219.

It interpreted, or, rather, it would seem misinterpreted, the principle of the stated account as importing that by the customer's silence either the forgeries may be considered as genuine and the payments ratified, or that the depositor may be considered as estopped from asserting that they are forgeries. This the court denied, and went on to hold that the extent of the depositor's liability for his negligence should be simply the amount of the damage caused thereby to the bank, and that if, as in the case before the court, the bank would have a right to recover from a third party the amount of any of the forged cheques, the depositor's liability for his fault would be diminished by that amount. But such a decision while, perhaps, fair enough in the particular circumstances of this case, might easily lead to awkward results. The direct effect would be to have the court determining the actual obligations of the parties before it, by the possible obligations of third parties not represented, and liquidating the damages in one action by reference to a claim wholly unliquidated, and, perhaps, never to be enforced, or even put forward by another. This, morevover, is to miss the real point of the principle under discussion. The customer says: "You have violated your contract of agency with me by paying out certain cheques not made or authorized by me." The bank replies, "By your conduct with regard to the pass-book, you allowed us to suppose that its contents were correct; you only had the means of questioning it, which means you did not use; we, therefore, were not led to suspect anything, as we should have been, and were not able to take the preventive steps which otherwise we could have taken in your interests still more than in our own. You have not so much neglected a duty to us as you have actually hindered us from performing our duty to you. You must bear all the consequences of your own neglect, whatever you allege them to be." The question, then, is not, how much damage the customer's negligence has caused the bank, but how far the customer is responsible for the damage which he alleges the bank has caused to him. If he had neglected a duty, and if his negligence be the sole cause of the state of affairs of which he complains, and there be no contributory negligence on the part of the bank, his action is answered once and for all; there should be no further question as to what the bank might or might not do under the circumstances. The bank can put the customer in its shoes if he so desire. Beyond that there is no further obligation upon it.

These remarks seem to be necessary in order to call attention to the real difference between these two leading American authorities, a difference which Sir John Paget * in considering them, seems to overlook. Both cases, however, are at one upon the vital point that as a matter of law, the depositor, by having required the bank to make up his pass-book and by receiving it and his vouchers, assumes a duty to examine them with all reasonable diligence and care. The consequences that flow from the neglect of this duty, if it be admitted by the court, may be left to work themselves out.

So much for the American point of view.

In Canada the question has come up for discussion in the recent case of Rex *vs.* the Bank of Montreal †; and as this case has been studied in no less than three courts, no apology is needed for some particular statement of the remarks of the various judges engaged upon it.

A clerk in the militia department had forged several cheques upon the account kept by the Dominion Government with the Bank of Montreal. He was entrusted with the duty of checking the bank account and examining the pass-book, and in this capacity used to the full his opportunities of deceiving his superiors as to the true state of affairs, and caused them to acknowledge at each customary period the correctness of the pass-book entries. The bank was sued by the Government for the amount of the forged cheques. It pleaded, along the lines that we have been discussing, the Government's obligation to examine the pass-book, and the condition of settled account which the Bank was entitled to infer from the Government's silence after having had opportunity to examine. The first court, in the person of Judge Anglin, discussed with considerable hesitation the doctrine appealed to, but rested its decision upon the point that in any case such an answer, being what is known in law as a plea of estoppel, could not be used against the Crown. It is, however, rather difficult to follow the drift of the learned judge's remarks upon the doctrine before he decided to base his judgment upon other grounds. He refers to most of the attitudes taken up with regard to the pass-book which have been discussed in this paper, and says, "The arguments for the imposition upon the customer of the duty which the defendants claim he owes them in regard to the pass-book, are cogent, and the American cases, if binding as authorities, would be conclusive in favour of the bank." But he ends by quoting those remarks of Sir John Paget, which summarize while they deprecate the present state of the law in this regard in England. While, therefore, seeming to lean towards the American view, he appears to hold that he would be bound not to go beyond the English authorities if he were to rest his judgment upon this point. But he then goes on to say that in the particular circumstances of the case, the pass-book system, according to the Dominion Audit Act, was not a legal way of settling the account between the Militia Department and the bank; and that the contract with regard to the pass-book which might be implied in the case of the ordinary customer, could not be in question here. The case went to the Court of Appeal, which confirmed the judgment of the court below. Counsel for the bank acknowledged that if their contention was merely that the Crown had been guilty of simple negligence towards the bank, and was estopped thereby, it would have to pay. But their point was the much stronger one of an implied contractual obligation by the customer to examine the pass-book and returned cheques, and to be bound by what he allowed the bank to presume with regard to the book, unless at the time he made some objection to it. The court's expressions upon this contention were very non-committal. Moss, the Chief Justice, was "not prepared at present to fully accept the proposition that even in the case of a banker and a private individual customer, there is by contract any such obligation upon the latter as is contended for." In any event he thought that the argument virtually amounted to a contention of estoppel, which could not in the circumstances be allowed.

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* Paget's Banking Law, p. 129.

† 10 O.L.R. 117; 11 O.L.R. 595, and 38 S.C.R. 258.

MacLaren, J., a very high authority, appeared to think the bank's contention a strong one, but held that it was answered firstly, by the provisions of the Dominion Audit Act, which provided a different mode of settling the Crown's accounts, and, secondly, by the broad doctrines that the Crown is not bound by estoppel, and is not responsible for the acts of its servants. The other two judges made no remarks.

The bank then appealed to the Supreme Court but again failed. But there can be no doubt that the reason of its failure was the peculiar status of its opponent and the prerogatives invocable by the Crown. Girouard, J., speaking of "the daily and monthly statements and so-called settlements made" between the parties, said, "How these documents can amount to a ratification is more than I can conceive. The forgery was not known, or even suspected by any one." To this it seems an obvious reply that the bank never supposed that, if the forgery had been known or even suspected by any one except the forger, it would have been ratified. The learned judge can only mean that a ratification brought about by Martineau, the forging clerk, could not bind his superiors who had not his knowledge of the facts. But such a principle is another matter altogether; and, unless applied as in this case in favour of the Crown, is open to serious criticism.

Davies, J., agreed with the courts below that the ordinary doctrine of estoppel could not be invoked against the Crown. He then went on to say that the argument of contractual obliagtion was only another form of the doctrine of estoppel and, therefore, failed for the same reason; to say nothing of the Audit Act.

Idington, J., followed suit. MacLennan and Duff, JJ., made no remarks.

It may be said therefore, that in this, the first important Canadian case in which it was brought up, the doctrine as to the contractual obligation assumed by the customer with regard to his pass-book, has received recognition as a point for serious attention. Of course it cannot be pretended that it has been affirmed. On the other hand, it cannot be said to have been denied; and there is no doubt that had the bank's opponent been a private citizen the courts would have been able to give, and would have given to the argument a far more favourable consideration. It seems possible, moreover, from the attitude of some of the judges that it might have been treated from the

American point of view as a contract to be implied by law rather than, as in England, to be proved as a custom. It only awaits a suitable opportunity for application, and a more extensive argument. Perhaps, as Sir John Paget suggests, it ought to be proved as a custom in order to have the assistance of the Vagliano case. But it would certainly seem as though general equity should support it. Otherwise the modern banking habit of surrendering past cheques to the customer is a mere piece of folly. It puts out of the bank's hands the power to make a more extended scrutiny of its customer's cheques; and yet, when transferring that power to the customer and giving him every opportunity to see the true state of affairs as he best can, it retains no hold over him to insure his doing so. Such a position is not a just one, nor in accordance with the modern theory of obligations. For it is coming to be recognized that in this complex world men can hardly come into contact with each other without assuming mutual though, perhaps, silent duties. It is more and more being seen that where intercourse between two persons induces either of them to do something thereafter which otherwise he would not have done, or to leave undone something which otherwise he would have done, an examination of the inducement must bring to light some fundamental concurrence of obligations which must be recognized and considered by courts of law. It may even be said that where an act is done by one person for another's advantage, and still more at that other's request, the reasonable expectation of some appropriate act in answer should constitute a legal claim. That answering act would be, in the ordinary course of events, either payment or some advantage corresponding to the advantage conferred. In the case of the pass-book it is the latter. The customer requests the bank to have his pass-book made up. The bank makes it up and returns it to him with his paid cheques. It is only reasonable to suppose that the bank by so doing imposes, and the customer by receiving accepts, an obligation to examine and to put the bank in a position of certainty. If nothing be said, the bank is surely entitled to that position of certainty which it reasonably believes in, unless the customer subsequently show that while he fulfilled his obligation to examine with diligence, he was deceived by what ordinary prudence could not have discovered. Still more reasonable is such a position when we remember the ultimate grounds of it. The customer cannot ask the bank to look after his interests without impliedly contracting to put the bank, as far as he is concerned, in the best position to do so. If he control means of information with regard to the genuineness of his cheques, which the bank has not, and which if obtained would enable the bank the better to serve him, he is bound to do his best to obtain that information and to communicate it. If he fail to use ordinary care when it might best benefit himself, he has no business to re-open the matter when it can only injure the bank. Except there have been excusable error, the account between them should be regarded as settled according to the showing of the pass-book.

This is the doctrine of the settled account. It is consonant with equity. It is contended for by the leading English authority as the only fitting rule. It has been asserted by the highest court of the United States. Our own courts cannot be held to have condemned it. There seems then to be no good reason to suppose that it may not yet become the law of this country.

W. F. CHIPMAN.

POST-PANIC LESSONS.

THAT there are lessons to be derived from our own and our neighbour's recent financial experiences, most of us, while the marks of the tempest still survive, are willing to admit. Whether we will really take the lessons to heart for our own profit in the future is another matter. The first thought of some has been loudly to proclaim the surpassing excellence of our financial system, whilst other conceive it their chief duty to declaim its manifold shortcomings. The admiration expressed by our friends to the south has caused much crowing in our own barnyard, while the croakings of the unprofitable frogs assert that all our eggs are addled.

Now, though we have emerged from a widespread panic with no little satisfaction to ourselves, and with no little credit in the eyes of the world, it would be foolish to deny that weaknesses have been revealed which, though happily they produced no serious results in the recent crisis, have possibilities of disaster for the future, and if we are wise we will get rid of those weaknesses before history repeats itself. When boom times come again, and when continued financial fair weather has matured another golden harvest, which we are all eager to gather, we shall give no heed to the man whose far sight descries the cloud on the horizon; we had two years warning of it this time, and paid no attention till the storm was upon us.

Most of us are proud of our banking system, and proud of the solidity of our banks, but I think that few people realize how much depends upon maintaining its integrity by supporting the individual units thereof. The disaster which would overtake this country by the failure of that system, through the failure of a number of those units, is inconceivable. Every little village, by a well established order, has been brought into communication with the great centres of cash and credit, by the banks, which both care for the savings of the community and supply its legitimate financial needs, and in the discharge of these functions earn a moderate return for another great class, their shareholders. Attracted by the results attained by the older banks in this respect, the professional promoter is finding the business of establishing new banks a lucrative one, and by questionable political devices, as well as by raising the familiar cry of no monopoly, he is making it difficult to secure the existing institutions in the possession of these privileges which long years of service to the nation entitle them to enjoy. The result of a non-monopolistic system of banking is seen to-day in the United States, where $50,000 or less of capital qualifies for the business, where hundreds of banks throughout the land have closed their doors, and where, in the City of New York alone, one hundred millions of the people's money became locked up in failed banks and trust companies (the latter doing a banking business unfettered by the limitations which the law imposes on banks). Here we have an answer to those who are suggesting for us American methods of Government supervision. Every one of these failed concerns had been regularly and duly examined by constituted authority, but in most cases a costly receivership is demonstrating fundamental rottenness which existed prior to the panic and through successive government examinations. In Canada, spontaneous action on the part of the other banks has come between the one institution which has been unable to continue in business and its depositors, giving them immunity from loss, and thus saving a situation which was at one time potent for disaster. Let us not, however, suppose that the chartered banks of Canada are therefore to be mutually responsible for one another, such a responsibility is manifestly impossible, and the very idea of it is dangerous.

This, then is the lesson. New charters for banks must be granted only after strict and absolute compliance with the banking law of the country, and only to parties of the highest integrity and financial standing.

Now for another consideration. What is a *strong* bank? Surely a bank that is a strength to the community. Not necessarily the bank with the largest capital. Not certainly the bank with the largest cash reserve; for in the accumulation of that reserve it may suddenly have withdrawn money from the channels of trade, and may thus have become an actual contributor to hardship. In the United States recently the banks could be divided, generally speaking, into two groups, those who were suffering from want of cash, and those who were causing suffering by hoarding cash, and the lengths to which the second group went made more than half the trouble. We are not wholly from such selfish actions in Canada. While a substantial reserve, *steadily maintained,* is a splendid investment for any bank, it is questionable if the true principle of banking is exemplified by seeking to accumulate reserves during a financial crisis. Although it may apparently cause a loss of income to keep a large amount of immediately available assets on hand when business is brisk and the country prosperous, still that is exactly the time when it is advisable to follow the path of caution.

The *American Bankers' Magazine,* commenting upon the risks of lending too freely in good times, says:

"At a time when the 'progressive' banks are straining to keep every dollar out and to pile up big deposit totals, the bank that does not mind being called 'old-fashioned' can afford to lessen its risks by keeping a strong reserve on hand, being satisfied with a moderate increase of deposits. Then, if a time of stress comes, that bank, having always kept a strong reserve on hand, can do what a bank ought to do at such times—expand its loans. A bank that is in a position to do this can render the highest service to the business community, and by expanding its loans when other banks are contracting theirs will enhance its reputation and add to its profits."

Canadian bankers will doubtless admit, after the stress of last autumn, that it is wise to have reserves in such shape as to render the greatest service to the business community at the time of its greatest need.

It is also true that there would have been a larger supply of money available for use during the weeks of financial anxiety last year, if some of the deposits obtained in days of prosperity had been immediately available for commercial purposes.

Finally, the strongest bank is not the one which locks up money in securities which it cannot afford to realize in times of stringency. The strongest bank is the bank which employs its resources in the legitimate commercial development of the country, not in furthering stock or grain or land speculation but in aiding industries, increasing production and developing foreign trade. Not the bank which lends to the lumberman and denies the farmer, which assists the stock broker and refuses the manufacturer, but the bank which tries to further, at home and abroad, the truest interests of Canada.

A. R. DOBLE.

A BREEZE FROM THE WEST.

Some years ago, at an annual meeting of the Bank of Montreal, its general manager referred to "Grocery Store Banking." It is to be hoped that the following letter, contributed to a Western paper by a student of banking affairs during a "public-spirited" spasm, may attract the attention of the gentleman at the tiller of the big bank. The "appalling state of affairs" discovered by G. Dawson after investigating the Canadian banking system is shocking, simply shocking:

To the Editor of The Tribune.

Sir—As a subscriber I beg a little space, feeling a little public-spirited, to comment on some valuable letter contributions to your paper on "Our Present Banking System." I must confess, Mr. Editor, I was always impressed with the idea we had the greatest banking system on earth. Since seeing these articles I decided to look into the matter and I find an appalling state of affairs. The other monopolies fade into insignificance when we find a handful of men controlling all the available cash of Canada and with a very autocratic hand. As far as I have gone I would strongly advise every man in Canada, be he a business man or a laborer, to investigate this question with earnestness as it affects him more vitally than he ever dreamed.

I happened to meet a western farmer a few days ago who lives a half mile north of the U. S. Boundary, and incidentally mentioned the question of our banking system. He then informed me he had formerly had great difficulty in securing any money when he required it until he discovered he could go across the line four miles to a small village that had good banking accommodation, **where he had only to walk in and ask for what he wanted and get it without any red tapeism any more than he would have at a grocery store. That, of course, pleased and surprised him,** and as a consequence he always goes there to deal. He says its all right to live in Canada when you can do your business in the States. He tells me they have two good banks, the one in competition with the other. If the one fellow won't give you what you want the other fellow will be glad to. The fact that a small village has two independent banks accounts for the ready facilities granted to customers. This clearly explains to my mind the reason why the U. S. is so much more progressive than Canada.

G. DAWSON.

March 30, 1908.

Mr. Dawson should take something for what he is pleased to call his "mind."

EDITOR.

SOME ANACHRONISMS.

IT has always been difficult for any people to realize that, as they grow, their ideals grow with them, much after the manner of the individual, and that as these ideals develop from generation to generation, and century to century, the vestments in which they must be clothed, *coram populo,* should logically and in decency be altered. Especially in the case of a young people is the clothing of an ideal a matter of grave political and economic import; in its ultimate resolution, an ideal is worth neither more nor less than its ability to accomplish. The more objective its appearance, the closer akin it is to the daily life and daily problems, the easier it is to keep in mind that ideals furnish, after all, the reason for living. The toga is a noble drapery, but its use would scarcely add to the weight or value of the Upper House's deliberations at Ottawa; gold lace and osprey plumes add glamour to the hard necessity of militarism, but they do not throw light on the problem of a citizen soldiery; trial by a jury of "twelve good men and true" has a full-throated ring which stirs the blood with its memories of Anglo-Saxon institutions, but it does not prevent the miscarriage of justice.

Economically and politically, we are greatly in need of scientific tailoring. The evolution of clothes has followed fairly accurately the change in physical conditions; evolution in the outward appearance of the fundamental principles of government and the administration of justice has followed little but the mazes of the law-courts and the intricacies of parliamentary procedure. It is quite thinkable that the growing disrespect for law as law, and justice as justice, is in a large measure due to the fact that, in their present administrative forms, neither law nor justice are easily recognizable as part of the ordinary routine of the daily life. They belong in the courts but not in the market-place, in the judge's chambers but not in the counting-house.

As an example, take that ancient and time-honoured institution, the coroner's jury, which to this day and every day, is assembled in a dingy and ill-ventilated room to solemnly deliberate on the most heinous of crimes against society—the taking of human life. What are its functions and methods, what weight has its deliberations? Chosen by the hit or miss method of summoning to serve those citizens who are most expeditiously procurable in the immediate neighbourhood—and the vicinity of the morgue never lacks those willing and apparently able to serve—it "sits" upon the case, listens to technical explanations of the cause of death in solemn vacuity, hears what witnesses are produced and brings in a verdict which, be it right or wrong, has absolutely no bearing, in nine cases out of ten, on any future legal action. Usually the verdict is, fortunately, what the coroner decides it should be. Occasionally, the jury decide a man is innocent when the authorities believe that further investigation is a legal necessity, whereupon the suspected person is retained in custody exactly as if a contrary verdict had been returned. How does the retention of this antiquated mechanism in securing the enforcement of law aid in maintaining respect for justice? Who feels that life is safer or society more secure because twelve or twenty-four men, such as compose these juries, have deliberated on whether or not a crime has been committed? What of the existence of "professional" jurymen in cases where the interests of certain corporations are involved who, in the language of the street, "can be depended upon"?

Nor, by stepping from the morgue to the court-house, or even from the criminal to the civil side, are conditions greatly altered. True, the grosser features are eliminated, but in how many cases does a jury measure up to the magnitude of the issues it is called upon to decide? That easy sentimentality which is the most insidious as well as the most common undoer of the ends of justice finds nowhere so congenial a dwelling-place as in the jury-box, and "the benefit of the doubt" all too often salves the conscience of a verdict criminally unjust to society. Where eleven others share the responsibility it is easy to allow oneself the gratification of being merciful. There is no need to speak of cases where the verdict has been decided by the spinning of a coin, or of others where eleven men, being of the same mind, have united to wear down a twelfth until, from physical weakness, he surrenders his convictions and subscribes to a decision that violates both his oath and his honour. The very fact that, in important cases, jurymen are treated with a rigour and severity such as is shown the criminals, lest means be found of corrupting them, is the best evidence of the absurdity of the system. Guarded night and day, under surveillance, in many cases, from the beginning to the end of a case, it can hardly be said that we encourage such citizens as are unforunate enough to be drawn for jury duty by too obviously trusting to their integrity.

And most difficult of all to combat is the knowledge of a condition which, while universally recognized is rarely conceded to exist, and that is the common prejudice against corporations. A man has been killed in some industrial institution and his widow left destitute. She is invariably in black, usually in tears, and generally attended by her infant children. Now, the average juror, being neither more nor less than an average citizen, is a good-hearted kind of a fellow, with a *penchant* for doing a generous thing, especially when it can be done impersonally and with a corporation's money. Let the evidence show that death was due entirely to the victim's own carelessness, that he had disregarded the plainest of regulations and made of no avail the mechanical devices placed by the company to insure his safety—there is still the penniless widow and the orphaned children. And after all, what are a few hundred dollars to a corporation? And there is your verdict. Ask a corporation lawyer how many times this condition has confronted him and then cease to wonder at the number of cases that are compromised when every rule of justice and evidence would urge their being fought through. Yet, if you were to call this same juryman a blackmailer no one would resent the charge more honestly and more indignantly than he. Also, trial-by-jury is the Palladium of our Liberties.

One may even go higher and, faring more intricately, still fare no better. There is a thing known as "parliamentary privilege," which absolves any member of parliament from legal responsibility for utterances made on the floor of the House. If, under the inspiration of constructive statesmanship, he malign the character and methods of a corporation, the law exempts him from the obligation of producing legal proof to support his charges in the courts of the country. We all know the member of parliament: we knew him, in the majority of cases, before he attained to that dignity, we knew his good and bad qualities, his value as an intellectual force, his business acumen and the worth of his judgment. Yet it is by no means invariably the case that, before his elevation to the dignity of a representative of the people, his opinion of men and affairs were regarded by his fellow-citizens as sacrosanct. He was sent to parliament, presumably, because the majority of the voters of his constituency looked upon him as capable of "looking after their interests," a phrase of large content, yet one which scarcely carries with it the idea of infallibility. But it is exactly infallibility which is required to justify "parliamentary privilege"— or, at least, the exercise of it. An utterance made on the floor of the House, especially if made deliberately, is presumed to be of sufficient importance to justify its being quoted through the length and breadth of the country, and particularly is this true when the subject is one of vital concern to every citizen of Canada. Suppose, however, a member, in the fine fury of his eloquence, throws discretion to the winds and states as a fact a supposition or deduction of his own which is not only not demonstrable, but which, if made where the "privilege" did not hold good, would have been answered by an appeal to the courts, what recourse has the injured institution? Who can estimate the damage done, or the far-reaching consequences that may follow? For, to a blow such as this, there is no possible counter. No denial was ever able to reach as far as the charge, no explanation has ever yet been read by all the people who saw the statement which it is desired to explain.

Like every other important matter, the question of readjusting these conventions of the past to the conditions of the present is a problem of no small magnitude, but the easiness of its solution will be no greater to-morrow than it is to-day. If it costs us a few traditions and the discomfort of assimilating new customs, we are not yet so ancient a people as to be unable to accommodate ourselves in a new order of things without fear that our social fabric will be destroyed in the process.

J. S. LEWIS, JUN.

A BANK'S POWER TO DISCOUNT.

DURING much of 1907 and in the opening months of the present year some discontent has prevailed in Canada over the policy of curtailment and restriction followed by the banks. This discontent has found expression in different quarters. Undoubtedly it has its foundation in a general misconception as to what the banks can and what they cannot do. It would be utterly impossible to convince some people that there is any limit whatever to the discounting power or ability of a bank. They have a deep-seated notion that in connection with every bank is a mysterious machinery enabling it to dispense all the credit it chooses. And many who recognize that there is a well-defined limit to the banking loan-power, acquiesce contentedly in a general curtailment until it touches themselves. Each of them thinks that he himself should be exempt from interference, and if his bank requests him to do with less than he is accustomed to he feels much aggrieved, and questions the necessity of the policy of curtailment.

When their funds are increasing rapidly, when business is booming, loans and discounts expanding, the banks are in favour and popular. But when deposits and circulation are falling, and discounts in process of readjustment to balance with them, they are decidedly unpopular. The trouble is that people are quite often disposed to consider the inconvenience they suffer as being due to faults of the lending institutions, or to defects in the banking system, when it is in reality due to general conditions affecting the whole world. Thus it happens that numerous attempts are made to tinker with the system of laws governing banking, with the object of compelling the banks to do what they would be glad to do if the power lay in them.

It will be interesting and well worth while to discuss this question of the banking power to discount. How far can a bank go in dispensing credit? When is the point reached at which it must "draw in its horns"?

The whole matter is largely a question of cash reserves. A certain minimum proportion of the liabilities has got to be carried in cash or its equivalent. One of the factors that influenced the management of the reorganized Sovereign Bank in its decision to go out of business, as publicly announced by itself, was the fact that the executive could see no hope of maintaining the cash reserves at the lowest level compatible with safety or dignity. It might have been possible to have struggled along for some time. Had this been attempted, the management would have had to throw dignity to the winds and to have had recourse to kite flying, shady finance, and the like. Such a policy could hardly bring permanent relief, and when the end came the bank's officers would be pretty well discredited, its affairs probably in such shape that other banks would be entirely unwilling to enter into any arrangement like that which was made—safeguarding the depositors from loss and inconvenience. In other words, the bank would become a source of great danger to the community in general as well as to its creditors in particular.

The course of events in the Sovereign case may be described thus: Heavy and continuous withdrawal of deposits after the announcement of the big losses—efforts to reduce discounts to keep pace with the fall in deposits—though successful for a while, the point was reached in January when the struggle became hopeless.

The episode offers a good illustration of the limitations that surround the banking power to discount. Nearly everyone has noticed that since the 31st December, 1906, the Canadian banks have experienced a very unusual fall in their deposits. For more than twenty years, until 1907-8, each succeeding year, without interruption, saw the banks gain in deposits. Of late the gain each year has been large. Taking the years since 1902, the following is shown in the two chief classes of Canadian deposits:—

	Deposits in Canada.		
	on demand.	Payable after notice.	Increase.
Dec. 31, 1902	$115,890,499	$254,217,869	
Dec. 31, 1903	120,529,032	279,327,788	$29,748,452
Dec. 31, 1904	134,280,104	319,132,078	53,555,362
Dec. 31, 1905	155,346,759	356,880,974	58,815,551
Dec. 31, 1906	192,143,482	398,765,182	78,680,931
Dec. 31, 1907	157,185,414	402,626,076	*31,097,174
Jan. 31, 1908	146,757,963	399,407,294	*13,646,233

* Decrease.

The difference in the position of the banks, as in 1906 and 1907, is striking. In the latter year, instead of a gain of $78,680,931, as in 1906, they had a loss of $31,097,174 in deposits, or a change of not far from $110,000,000 in direction. The cause of the drop is well known to the experts. All the branch managers have seen their customers draw down their balances in current account to the lowest possible notch for use in their business and for making investments and purchases at the attractive prices prevailing because of the panic and stringency. Under different circumstances, when credit is being dispensed freely by the banks these same balances are being constantly replenished, and even increased, through the crediting of proceeds of loans and advances made by the banks at which the respective accounts are kept, or by others. Then, latterly, the corporations, firms and individuals having sums on special deposit, have been finding employment for the money more profitable to them than leaving it with the banks on deposit. Probably the owners of the regulation savings bank balances have also been putting them into deals or investments.

From all sources combined the heavy fall in bank deposits resulted. This fall, be it understood, has not been due to a want of confidence in the banks—like the movement seen across the line. On the contrary, the Canadian banks stand as high in the estimation of the people as ever they did. Perhaps they stand even higher than formerly, because of the creditable manner in which they weathered the New York storm. As proof of the asserveration that want of confidence has not been the cause of the declining deposit fund, it is only necessary to point out the general nature of the movement. Pretty much all the banks, from the greatest to the least, have been subjected to it.

But the point to be remembered is that the decrease in deposits has practically the same effect on the lending power of the banks generally as if it *had* been caused by want of confidence. No matter what is the reason for the withdrawal, the effect is to deplete the loan fund, ultimately, if it continues.

One of the interesting features about the movements or operations of the banks is the way in which the resources are shifted from one form to another in response to changes in the bank condition.

Each individual bank management will set a figure which it considers the minimum below which the cash reserves must not on any account fall during ordinary times. This minumum percentage will, of course, differ in different institutions, according to the degree of conservatism of the respective general managers, and the character of the respective businesses. The only occasion on which these bankers would agree or consent to break into their minimum would be that of a panic or grave emergency, when they would not hesitate to use it, if need arose, to lend assistance to important houses or institutions in great danger whose fall would be likely to spread terror and consternation.

When the executive of a bank has determined what proportion of its liabilities it shall habitually carry in quick assets, the next point is to decide as to the amount to be carried in each of the different forms. The commonly accepted items of the quick assets are specie, legals, notes of and cheques on other banks, bank balances, home and foreign; call loans, home and foreign, and securities (bonds, etc.). There will be going on all the time a constant interplaying and interchanging of resources between these headings. One of the noticeable features of the drain in deposits during 1907 and 1908 has been the fact that specie and legals, the purest form of cash reserve, have actually increased in the face of the loss of deposits. The following table shows the course of deposits and of specie and legals during that period:—

	Total deposits.	Specie.	Legals.
Jan. 31, 1907	$653,521,984	$22,128,317	$44,773,108
Feb. 28, 1907	653,100,854	22,591,403	44,498,595
Mar. 31, 1907	648,297,135	22,772,815	42,631,694
Apr. 30, 1907	657,611,046	22,583,381	45,407,377
May 31, 1907	663,016,176	24,801,913	44,463,816
June 30, 1907	664,277,981	24,101,603	45,554,182
July 31, 1907	665,645,914	23,261,500	47,671,012
Aug. 31, 1907	658,106,853	23,861,982	46,843,961
Sept. 30, 1907	666,047,153	24,097,487	48,713,519
Oct. 31, 1907	655,774,110	25,796,531	48,131,162
Nov. 30, 1907	640,616,295	27,648,939	49,188,610
Dec. 31, 1907	632,061,124	25,119,474	49,963,860
Jan. 31, 1908	625,785,953	24,866,229	50,159,507

Thus it is seen, as the deposits fell, this best form of cash reserve grew stronger and stronger. If these items alone were examined the conclusion might be arrived at that the banks were making themselves unnecessarily strong, and that there was some point to the complaints of the public. But an examination of the monthly statements shows that the strengthening of the specie and legals was effected through drawing down the other items of the quick assets.

1907.	Notes and Cheques.	Net Foreign bank balances.	Foreign Call loans.	Canadian Call loans.
January	$27,483,645	$11,363,592	$53,079,637	$53,979,494
February	25,855,163	5,394,623	55,948,496	53,342,912
March	27,136,456	1,049,470	51,340,792	52,676,592
April	28,886,575	5,884,359	48,430,477	50,357,266
May	30,649,668	4,112,149	52,281,678	49,886,386
June	29,516,911	6,970,129	55,298,873	49,481,179
July	28,432,037	6,188,757	60,609,114	48,441,077
August	26,262,668	4,754,205	62,088,232	47,765,531
September	32,886,765	4,883,532	63,158,601	47,298,694
October	32,964,175	6,639,382	47,946,737	46,843,488
November	30,029,543	10,462,796	41,198,293	45,733,765
December	33,853,075	7,311,334	43,509,229	44,501,112
1908.				
January	24,199,245	9,394,528	47,252,542	43,052,673

Through the liquidation of current loans and discounts, which drew the criticism and complaint, the banks were able to maintain their whole quick assets at just about the same level as prevailed at the beginning. The writer is in the habit of compiling monthly for the *Boston Transcript* a statement of available reserves of the Canadian banks, in which the Government deposits, the demand and notice deposits, and the deposits elsewhere, are added to the note circulation, and from the sum the total of notes of and cheques on other banks is deducted (these being obligations of the banks held by themselves). The result is taken as the net liability of all the banks, regarded as a unit. As available reserves, specie, legals, net foreign bank balances, and foreign call loans are added. Calculated in this way the percentage of reserve to net liability has run as follows:—

	Per cent.		Per cent.
Jan. 31, 1907	18.92	July 31, 1907	19.39
Feb, 28, 1907	18.41	Aug. 31, 1907	19.42
Mar. 31, 1907	16.88	Sept. 30, 1907	19.75
Apr. 30, 1907	17.43	Oct. 31, 1907	18.17
May 31, 1907	17.87	Nov. 30, 1907	18.49
June 30, 1907	18.57	Dec. 31, 1907	18.63
		Jan. 31, 1908	19.70

One of the reasons why the idea is so commonly held that a bank has practically unlimited lending power is because in a large number of the loans made the banks making them do not have to pay out the proceeds in the form of cash for a time after granting the loans. For example, a customer discounts a note for $1,000. The proceeds are credited to his account, and, after a short while, he gives cheques to other parties, who may in their turn deposit the cheques in their accounts at the same bank. Other cases occur in which proceeds of loans are taken in the shape of the lending bank's notes, and go into circulation. Then, also, cheques are sent away to other places, or drafts on other points are bought, or some other credit instruments used as a medium of exchange.

The customers, or some of them, get an idea that the bank can manage to keep these things flying round so that it need not pay out actual cash for a long time, if at all, after the loans go through. Whereas, as a matter of fact, these transactions merely result in deferring the outgo of the actual cash for a few days, except in a few isolated and special instances, or at special seasons of the year, when a longer time is gained.

At the head offices they know, by long experience, that it is not safe to count upon a protracted deferring of the time when the payment of proceeds of loans will deplete the cash, and that, when an agreement is entered into to lend a sum to a customer, it has to be calculated that the loan will call for that amount of cash, or other available resource.

All the banks are subject to the same inexorable law. They must, one and all, maintain their reserves at a level permitting them to go their way with safety and dignity. And that requirement will be greater in a period of falling deposits than it would be in a period of rising deposits. For, when the tendency is steadily upwards, and reserves are depleted or reduced through making one or more important loans, there is a good prospect of their being speedily restored through the steady accessions of fresh deposits. But when the position is reversed, there is no help for it but to keep continually replenishing the quick assets through drawing upon the current loans and discounts.

H. M. P. ECKARDT.

AS OTHERS SEE US.

The following playful burlesque on the forms of hypothecation suggested for the use of banks appeared in the Toronto *Mail and Empire*:—

"We also give and bequeath to the Bank of ——— in absolute perpetuity forever, and whether these loans are repaid or not, and over and above all the worldly goods of our company, its shareholders, their relatives and friends and all their possessions (no matter whether they are interested in the company or not), the following, viz.:—Our physical existence and the possession of our bodies, both before and after death (no objection to be made to the sale of said bodies to medical institute, always providing the sum offered be not less than four bits), our mental abilities and all their results, and not to except any future labor of our brains, such as patents, poems, or any work of literature or the like which we may produce, and our immortal souls (whether they be saved or damned), provided always that the bank be held in no way responsible to Satan if the fuel of our substances be not satisfactory.

It is further provided that if the prevalent theory of the transmigration of souls be a true one, the said bank shall have full possession of our atoms in whatsoever body they be reinstated, and that we may be summarily sold at the discretion of the bank if we be an animal of any value, the said bank to be held in no way responsible if we should exist as rats, vultures, microbes, or any destructive animal.

Signed........................

THE CIVIL CODE OF LOWER CANADA.

IN its legal aspect Law does not exist apart from human society. All through human life, as individuals gather in any society, it seems to be recognized that the individuals living in that society must perform certain duties and refrain from certain actions, otherwise the existence of the society would be impossible, and Law is nothing else than the rules, either positive or negative, imposed in recognition of this principle as an obligation upon the different members of a community by the community at large. In other words, the Law of any society is simply the expression of one aspect of the moral consciousness of that society. It is a well known fact if any particular statutory provision, any given law, has not the moral consciousness of the community behind it,—or, to speak more popularly, public sentiment in its favour — it cannot be enforced, but becomes a dead letter. In this sense law is the form in which one aspect of the community life is expressed in something the same way that language is the form in which the thought of an individual is expressed. Now, society in the abstract is to a certain extent a living organism. There is a national life made up of, but distinct from, the lives of the individual citizens composing the nation. Indeed, society, and by society I mean the sum total of the life lived by all the individuals dwelling in a community, has often been compared to an individual in respect to its life, and the comparison is true in that nations, like individuals, are born, flourish and die, and that any community is as much influenced by, and is a product of its past, as an individual is the result of all the influences that have gone to the moulding of his development. Or, as it may be differently expressed, there is a Law of Causation running through the Universe, and to this law nations, as well as individuals, are subject. Hence the impossibility of any radical or violent change in the system of laws of any country, and hence also the interest and necessity of history, for we cannot understand the present without a knowledge of the past.

Any one who has begun to have an idea of our Civil Code as it exists to-day and begins to make a study of its origins realizes in the concrete something of what I have just expressed more or less in the abstract. Its history begins in the far past in the Roman times. It is the outcome of the Roman Law, modified and changed by the customs of the Barbarians which swept over France during the decadence of the Roman Empire, with the added influence and variations introduced by feudalism. During the Middle Ages, the Roman Law was largely, though not entirely, forgotten as a written body of law, and in many places, even in France, especially in the north, law was only custom and usage and did not have any authoritative legislative sanction. With the rediscovery of the Books of Justinian in the 11th century, a great incentive was given to the study of law all over Europe, and by the edicts of the Kings of France and the labours of the great French jurists under the late Louis of France, the Civil Law of the country was gradually systematized and partially codified, the movement finally culminating in the Code Napoleon in 1804.

The French law as it existed in the 17th century was carried by the French settlers to Canada, and retained at the time of the cession of Canada to the English Crown. It was again modified by the introduction of some English principles, and finally codified in 1866 in the form in which it is now found in the Civil Code of Lower Canada.

Now, what is the Civil Law? The definition, like the Civil Law itself, has had a long history. The Romans used the term Civil Law, *jus civile,* in the sense of the law applicable to the citizens of Rome as opposed to the law that governed the relations between foreigners living at Rome, between themselves, or the relations between Roman citizens and foreigners. In early Roman law, as in all primitive societies, law, religion and morals are very closely intertwined, and it was only the citizens who had part in the religious life of the state who could have the benefit of its laws. But, as foreigners settled at Rome and Rome's influence spread throughout the Mediterranean world, she had to broaden the basis of her legal system by the introduction of rules which were of more universal application. These rules were largely introduced by the Prætor, and formed the basis of what was called *jus gentium.* In the Middle Ages Civil Law meant, on the Continent, Roman Law as set forth in the Books of Justinian in distinction from the ecclesiastical or Canon Law. In England at the same time, Civil Law meant Roman Law as distinguished from English Common Law. And because the part of the Roman Law which has most influenced European legal development, is the part which deals with the ordinary relations of private persons, Civil Law has come in modern European usage to mean private law in general without regard to its origin as distinguished from public law, while the term in modern English includes and designates all the existing systems of private law which are in the main based on the Roman Law. Civil Law in this sense, is a blend of Roman, Teutonic, ecclesiastical and purely modern institutions and rules, fitted into a framework which is still substantially Roman. It prevails on the Continent, in Scotland, in the Spanish, Portuguese and Dutch Colonies, the West Indies, the Philippines, Louisiana and the Province of Quebec. Civil Law therefore in the European sense means private law, in the English sense it means those systems of law based on the Roman Law as distinguished from the Common Law of England and America. The law in the Civil Code is Civil Law in both senses. At present practically all the Civil Law countries now have codes of the Civil Law, a code being defined as a new enactment, based, of course, on existing principles, containing legislative rules of law relating to a particular subject, such as the Civil Law, Criminal Law, Canon Law, Civil Procedure, etc.

England and America, the countries of the Common Law, are practically the only great nations, apart from Russia, where uncodified laws are exemplified. In the civil law countries the law as it is found in the codes is a positive enactment of the legislatures, and is said to be written law. The Common Law, on the other hand, in England and America is still unwritten and in theory rests for its authority not on legislative enactments, but upon the binding force of custom and usage. It is defined by Kent as " those principle usages and rules of action applicable to the Government and security of persons and property which do not rest for their authority upon any express and positive declaration of the will of the legislature." It is the rules of law which have been administered in England by the Common Law Courts from time immemorial. In the older theory of the English law, a knowledge of law, unknown to ordinary laymen was supposed to exist in the mind of the judges who applied it as occasion arose, such application becoming, as soon as it was made a binding decision on all courts, of an equal or lower jurisdiction, or practically the law on the subject. The judgment, however, was in theory not the law, but only the evidence of the law, which still remained unwritten, even when the decisions were reported. To-day it is theoretically assumed that there is somewhere a decided case on any conceivable point which may arise. As a matter of fact, there may be no decision directly in point, in which case the judge decides from the nearest analagous cases, and as soon as the decision is given it becomes the law, or in any event, the evidence of the law on the subject which all subsequent jurisprudence must follow. Hence, in England the Common Law is accordingly found in the decided cases. In the Civil Law countries, on the other hand, the law is found in the codes and in the commentaries of authors of recognized standard who have written on the articles of the Civil Codes. Here judicial decisions are not the law or the evidence of the law, but only interpretations thereof. These interpretations may be wrong, and in theory courts of equal or even lower jurisprudence are not bound to follow the same interpretation, the influence of a decision in determining future jurisprudence depending not upon the fact that judgment was given in a certain sense, but upon the legal reasonableness of the grounds upon which the judgment is based. In France, even the same court is not bound by the decisions given by itself, and in another case and with different judges, it may decide a subsequent similar case in a directly opposite sense to a previous decision; there are cases decided by the *Cour de Cassation,* the highest court in France, which are directly contrary to one another.

The same tendency is shown very strongly in the early writers upon the Code Napoleon, such as Toulier, Troplong, and even Demolombe, all of whom are quite free in criticizing the decisions of the courts and in stating that the decisions are wrong, and that the law is not as the courts say that it is. In practice, however, the courts in France tend to follow more and more the English principle, and when once a jurisprudence grows up in a certain sense the courts are very loath to decide a case contrary to the jurisprudence. The more modern writers also, on the Code Napoleon, quote the decisions of the courts as giving the *de facto* interpretation of the law. In the Province of Quebec we have almost a combination of the two systems. Though, as in France, our law is not found in the decided cases but in the Code, our lower courts are practically bound to follow the decisions of the higher courts, and it would be almost impossible to get a Superior Court judge to decide a case contrary to a decision of the Court of Appeals, and the courts of an equal jurisdiction have a strong tendency, though they are not bound to do so, to follow decisions given by each other. When, however, a number of decisions have been given in a certain sense the jurisprudence is said to be established and a judge feels bound to follow the settled jurisprudence, though he may personally disagree with it. There are, of course, certain questions upon which the jurisprudence differs, as, for example, the legality of a marriage between two Roman Catholics contracted before a Protestant minister. In such cases the judge follows his own views until there is some authoritative decision from a Court of Appeals.

I said a little while ago that Civil Law in the European usage, and as used when referring to the provisions of our Civil Code means private law. Now, private law is the rules applicable to the ordinary relations of individuals between themselves as opposed to public and constitutional law which deals with the political organization and government of the country, or to the criminal law which deals with those actions which are deemed to be offences against the body politic and which are directly punished by the state. It is in the Civil Code of Lower Canada that the main body of our Civil Law as thus defined is found. It is not all found there, however, as the exclusive right to deal with several large subjects which are really branches of the Civil Law, such as banking, etc., is given by the British North America Act, *i.e.,* the Act of Confederation, to the Parliament of the Dominion of Canada. Complete authority, however, to deal with all rules of law governing property and civil rights in the Province of Quebec is given by Section 92 of the British North America Act to the Provincial Legislature, and in so far as the rules governing property and civil rights are found in the Civil Code, they are exclusively within the jurisdiction of the Province of Quebec. Though this is the case, the Code itself is not an enactment of the Legislature of the Province of Quebec. The codification of the civil laws of Lower Canada was authorized in 1857 by 20 Victoria, chapter 43, and the work was completed and assented to as law in 1866. This was one year before Confederation. The Code was thus established as our law by the old Legislature of Canada which existed before Confederation. It was continued in force by section 129 of the British North America Act, which provided in general terms that all laws in force in Canada, Nova Scotia, or New Brunswick at the time of the Union shall be continued as if the Union had not taken place, subject, however, to be repealed, abolished or altered by the Legislature of Canada, or by the legislatures of the respective provinces. There are, or were certain articles in the Code, as originally enacted, which dealt with subjects not within the power of the Legislature of the Province of Quebec, but which fall under the jurisdiction of the Dominion Parliament. Sections 2279 — 2254, both inclusive, which dealt with bills of exchange, are examples of such articles, which sections have since been repealed by the Bills of Exchange Act passed by the Parliament of Canada in 1890, in which Act the law governing bills of exchange is now to be found.

The Code itself is divided into books, titles, chapters, paragraphs and articles. There are four books, the first deals with the rules governing persons; the second contains the law respecting property, ownership and the modifications thereof; the third is entitled, "of the acquisition and exercise of the rights of property"; while in the fourth are found the articles relating to commercial law. In all, there are two thousand six hundred and thirteen articles. Of the four books, the third is by far the most voluminous and important, and contains sixteen hundred out of the twenty-six hundred articles, of which the Code is composed. The titles of this book are: successions, gifts *inter vivos* and by will, obligations, marriage, covenants, sale, exchange lease and hire, mandate, loan, deposit, partnership, life rents, transaction, gaming contracts and bets, suretyship, pledge, privileges and hypothecs, registration of real rights and prescription. The articles of the Code are, in the main, enactments of general principles and they do not by any manner of means go into minute provisions of law. In this they are different from the Acts almost in the nature of codes passed recently in England, such as the Sales Act, and the Merchants' Shipping Act. These English Acts contain very minute provisions of law and practically cover all the decisions of the English courts for the last hundred years upon the subjects with which they deal. How general are the articles of our Code is seen by the fact that the fourth book dealing with commercial law has only two hundred and fifty-six articles to cover the subjects of merchant shipping, of affreightment, of carriage of passengers in merchant vessels, of insurance and of bottomry and respondentia, and that the whole question of torts or private wrongs is covered by Chapter 3 of the title of obligations which consists of only 4 articles. The general principles, however, are there, and it is for the courts to see to their application in particular instances.

The main body of the law in our Code is from French sources, but that part which is entirely French is not necessarily identical with the provisions of the Code Napoleon, which contains the modern Civil Law of France. The reason of this is shown by our history. Canada was discovered by Jacques Cartier in 1534. At this time every unknown country, or country unoccupied by a Christian power belonged to the first nation discovering it. In virtue of its discovery by Jacques Cartier, therefore, Canada became a French possession. From 1534 up to 1663 there was no formal introduction of the French laws into the new world, though such introduction was implied in many of the concessions and charters given during the early history of the French possession of Canada. For example, in the concession by the Company of One Hundred Associates of the Island of Montreal to Sieurs Chevrier and Le Roy in 1649, the following clause is found: "The whole, according and conformably to the custom of the Prevoty and Vicounty of Paris, which the Company intends to be observed and kept by the whole of new France." The government of the country by charters issued to individuals and companies which prevailed up to 1663 not proving satisfactory, the administration of Canada was taken over directly by the King of France who, by an edict issued in April, 1663, established a royal administration in Canada and organized a Superior Court for the country under the name of the Sovereign Council of Quebec. This court, which was the ultimate court of the Colony, was obliged by the edict establishing it to judge all cases, criminal and civil, which might come before it according to the laws and ordinances of the Kingdom of France, and to proceed thereto as much as possible in the form and manner followed and practised in the Court of the Parliament of Paris. By this edict the laws of France, and especially the Custom of Paris as it then existed, was introduced into Canada. Since that date the development of the French laws in Canada have diverged somewhat from the development of the laws of France. The time from 1663—1759, date of the taking of Quebec, was an important one in the consolidation and systematizing of the laws of France. During this period several important ordinances, practically codes, were promulgated by the kings of France. Examples of these ordinances are the Ordinance of 1667 dealing largely with procedure, and later on the *Ordinance de la Marine,* and the *Ordinance du Commerce,* there were also others. These ordinances, with the exception of that of 1667, never became law in Canada. For in France at the time of their promulgation the only independent power the different parliaments had, was the right to register or refuse to register the ordinances of the king, and until such registration the ordinances had no force within the jurisdiction of the parliament where they were not registered. Whether it was necessary that these ordinances should be registered by the Sovereign Council in order that they should have the force of law of Canada has been a very disputed point in our law, and one which has given rise to considerable controversy. The question is of importance for these ordinances made changes in the then existing law of France, and as our Code is only a codification of the laws as they were when it was adopted, we would have to refer to these ordinances in case of any doubt as to the meaning of our Code rather than to the Law in France before their promulgation.

It has now, however, been authoritatively decided by the Privy Council in the case of Hutchison & Gillespie, that such registration was necessary. Hence, of all these ordinances, that of 1667, which alone was registered by the Sovereign Council, was the only one to become law in Canada. To the extent that these ordinances made changes in the then law, our legal development has been different from the laws of France. In 1763 came the cession of Canada to England, since which date the course of the French Law in the Province of Quebec has developed independently of the Law of France. This is true in any event in so far as any direct legislation is concerned. In the articles of capitulation of Quebec, in answer to the request that the French inhabitants of Quebec be granted their laws, the English general stated that they became subjects of the English Crown. On the 17th of September, 1764, after the English had fully entered in the possession of Canada, General Murray issued an ordinance practically replacing the French Law by the English Common Law. It is another of the disputed points in the history of our law whether General Murray had the necessary legal authority to make such a change, but in any event the change was made *de facto*. This introduction of the English Common Law caused great dissatisfaction to the French Canadians, and by the Quebec Act of 1774, Murray's ordinance was revoked and annulled from and after the 1st of May, 1775, and the Canadians were given the right to use and enjoy the customs and civil laws of Canada as they existed at the time of the Cession. This Quebec Act, however, introduced one English legal principle, namely, the freedom of wills. This freedom of wills, together with the rules of evidence in commercial matters, the right to be tried by a jury in certain civil cases, are the only provisions of our Civil Law which come to us from English sources. Otherwise the law in our Code is entirely French. It is, consequently, to the writers on the Code Napoleon and to the decisions of the Courts of France that our Bench and Bar turn for enlightenment upon our law, and not to the English authorities. Of course, as has already been shown, there are differences between the two Codes, and before citing any French authorities before our courts, one has to make sure that the article of the Code

Napoleon in connection with which the authorities are found, is similar to the articles of our own Code upon the question at issue. That the laws of the two countries are still so similar despite their long separation is a strong proof of the continuity of law.

CHAS. M. COTTON.

CONDENSATIVENESS.

It is questionable if the use of a type-writing machine has been conducive to the production of pithy, concise, brief business letters. Yet even novels may be written in a few words, for the feat has been performed by Mr. J. Ashley Sterry, the Lazy Minstrel. He puts the old three-decker in fiction into playful rhyme under the title of "A Nutshell Novel." This production has been frequently recited with inimitable grace and exquisite elocutionary finish by Mrs. Kendal in England and the United States, and runs as follows:

Vol. I.
A winning wile,
A sunny smile,
A feather;
A tiny talk,
A pleasant walk
Together!

Vol. II.
A little doubt,
A playful pout,
Capricious!
A merry miss,
A stolen kiss,
Delicious!

Vol. III.
You ask mamma,
Consult papa,
With pleasure;
And both repent
This rash event
At leisure!!!

OLD AGE PENSIONS.

As a Canadian inquiry into the subject of Old Age Pensions is about to take place, it seems a suitable time to examine into the experience of any other countries in which actual experiments have been tried, to see what can be learned as to the general effects of such a plan, and enquire if there be any satisfactory basis on which to frame an estimate as to the possible cost of the establishment in Canada of a pension scheme.

Two plans have been tested, the one depending on contributions from beneficiaries, the other on a non-contributory basis. The former is in reality a plan for general insurance, and can only meet the needs of the situation if it can be made practically universal in its operation. To secure a universal adoption of pension-insurance would require some kind of compulsion, and in Germany, where this plan is in operation, the contributions are organized on a basis of compulsion on all whose incomes fall within a limit laid down in the law which established the scheme. A weekly contribution continued for thirty years is required, and though provision has been made for those who, by reason of their age at the time of the establishment of the system, could not complete the statutory contributions, the fact that the system, in its regular operation, imposes on all a prolonged accumulation, should not be lost sight of. The judgment formed of the system seems not to be very favourable, certainly not in such countries as England and America. Mr. John Morley, in speaking of the plan in relation to Great Britain, once said, "I hope that we, in this island, are not going to embark upon any semi-military or semi-police schemes of that kind." It is probable that, in Canada, such a plan would be viewed even more unfavourably than in England. Its details will consequently not be dwelt upon here.

The lengthened experience of Germany, now extending over seventeen years, might yet incline us to study its system but for two considerations. The one is that our sister Dominion, New Zealand, has entered upon a scheme of an entirely different nature, indicating the trend of opinion of races derived from

British stock. The other is that, even in the matter of length of experience, Germany does not stand alone, as a non-contributory scheme has been in operation in Denmark for a period shorter only by six months than the duration of the German scheme itself. Many have written of the New Zealand scheme, as to which the present writer cannot claim special first-hand knowledge. But the instructive experiment of the little European nation of two and a half million people, inhabiting a territory by no means bounteously endowed by nature, and demonstrating there what intelligence can do for agriculture, has been somewhat neglected by students and politicians in other lands. An account of it, derived not merely from books, but from a personal acquaintance and repeated enquiries extended over the greater part of the time it has been in operation, may present, therefore, some points which a mere representation of the facts of the New Zealand scheme would not offer. The scheme itself is interesting, and the character of the nation which has evolved it may commend it to a people such as our own. In their independence of spirit and democratic habits, the Danes would yield to few or none, whether Anglo-Saxon or of any other race.

The grant provided under the law touching Support in Old Age is one which, on the one hand, imposes no direct contribution on the recipient, and on the other hand, affords aid only to those who need it and can satisfy certain tests of merit. The minimum age for this special relief is fixed at sixty.

The test of merit is three-fold, its three points being: (1) freedom from conviction for crime or other offence involving loss of civil rights; (2) that destitution has not been brought on by an extravagant or disorderly life, or by improper use of resources, as in making excessive provision for children or others; (3) that the applicant has not, for ten years, received poor-law relief, or been found guilty of vagrancy or begging.

The points held in view here appear to be such as may prevent, as far as possible, abuse of the public funds. The relief of the indigent as paupers is maintained, and the new plan is, in every possible way, differentiated from pauper relief. Those who, in their old age, need help from public funds, can secure it on honourable conditions if their record be satisfactory, but must be content to take it under the circumstances of ignominy associated with a pauper's dole, if that condition fails to be fulfilled. An important question is, therefore, whether it is found to be possible, in practice, to maintain the distinction between the two classes, to apply fairly but rigidly the discriminating tests. The answer to this question must, of necessity, be a matter of opinion. But a favourable opinion can be supported by evidence. Not the least pointed item in such evidence is afforded by a survey of the returns of ages of paupers and of Old Age Pensioners. The figures of paupers on which we must rely are those for 1901. In that year 27 per cent. of those directly relieved were over sixty years of age, and, in the table of causes of the need for pauper relief, 22 per cent. of the total are declared to be in need because of their age. In fact, this important proportion of the total paupers, 27 per cent., was relieved, so far as four out of five were concerned, because of indigence resulting from age. If rather over three times as many old people were at that time receiving the special relief as those to whom a pauper's dole was granted, the number of the latter bears witness to the insistence on some standard of qualification for the special relief. For the country at large, the absence of continuous returns of pauperism prevents a direct comparison with other dates, such as might reveal any tendency to transfer the burden of assistance from poor-law account to pension account. Such a transfer has been assumed to be inevitable by some writers, on the ground that half the cost of pensions is borne by the general government, while the entire cost of paupers is charged to the local governments. In the case of Copenhagen, for which better information is available than for the country at large, the figures do not bear out this view. The greatest change in pauperism figures is shown in a relative increase in Indoor Pauperism, which may be due to the conditions of the new poor-law which was enacted almost simultaneously with the pension-law, or may be due to improved administration. The outlay on pauper relief, too, shows no such large decrease as might be looked for were any confusion between paupers and pensioners being developed. It reached about half a million dollars for the capital city about the time of the new laws, and in the following ten years an increase of small amount, about $20,000, is shown. Had the increase continued at the same rate as that recorded for the latter part of the eighties, the addition would, perhaps, have been well on towards ten times the actual increase, for the population of the city has not ceased to grow, and grow rapidly, and a city larger than Montreal has serious problems to face in respect to the growth of pauperism.

But, in addition to a reasonably fair inference from figures in which many influences find a joint expression, there may be cited the opinions of those most closely in touch with the actual facts. Direct inquiries from several of the most competent authorities in Copenhagen cause me to doubt the round statements of English writers as to the trend of events in the matter under consideration. It has been pointed out to me that the strict conditions of the law go so far that but little room is left for classing as pensioners those who are, properly speaking, paupers. Within the limits possible, it *may*, I was told, be done, but it cannot amount to much. From other sources I feel confident that, if it amounted to anything notable, acute business men concerned in the matter must have directed my attention to it. Further, the administrator of the system in the second largest aggregate of population in the kingdom positively assured me that, so far from there being confusion between the classes, his experience shows that the distinction between the Aged Deserving Poor and the Aged Pauper Class was becoming constantly more and more marked. The work of deciding to which class a particular case ought to be assigned seemed to him not to be one requiring the drawing of the extremely fine line that is suggested by the criticisms to which I have referred.

It cannot be denied that the increase of numbers of pensioners has been formidable. Not to go too much into detail, as the latest returns for the whole country relate to 31st March, 1906, we will compare this with the figures of ten years earlier, 1st January, 1896 (the date of closing the year having undergone a change in the meantime, as has been the case with our own Government's accounts). The number of pensioners grew from 36,246 in 1896 to 42,493 in 1901, and 51,036 in 1906. Comparing them with the total of possible pensioners, that is, the population over sixty years of age with married women deducted, we find that in 1896 about 20 per cent. of possible pensioners were actual pensioners, in 1901 this had increased to 23 per cent., and in 1906 to a little over 25 per cent. The growth has been rather rapid, and the signs of a slackening in the rate of growth are not as emphatic as might be desired. There are, in addition to the pensioners proper, a number of dependents, largely wives of pensioners, and these have increased considerably less rapidly than the pensioners themselves. They numbered 14,223 in 1896, 15,854 in 1901, and 17,795 in 1906. Had the growth in persons pensioned been no more rapid than the growth in population during the ten years surveyed, the totals at the end of the period would have been less by one-fifth of the pensioners and one-tenth of their dependents. How long the number will continue to gain on population it is not possible to estimate from the data at command. One thing, however, may be said: if, in the long run it turn out that practically all except the really well-to-do become pensioners in their old age, the financial burdens involved will have been adjusted more readily by a slow growth than if an attempt had been made to award at once, without discrimination of character, pensions to all who chose to claim them. The universal method has been strongly advocated in England, and doubtless a good deal may be advanced in support of it, but the large outlay which would at once result is a serious obstacle to the attempt to proceed along those lines. When a private individual contemplates giving a pension to a servant or workman in acknowledgment of long and faithful service, one of the principal conditions determining the amount given is his own ability to give much or little. If he cannot give enough to ensure his former employee an independence, he does not necessarily decide to give nothing. He gives what he can afford, and hopes that it may enable the worn-out worker to maintain some greater degree of comfort than would be possible without it.

Should considerations of this nature be assigned a determining weight in a system of State provision for disabled workers? Surely the question cannot be thrust aside in any country. No nation can treat as a matter of indifference the magnitude of the expenditure associated with proposed reforms, whether these concern the social condition of the citizens, or relate to national defence. And if we look at the matter from this point of view, we might be ardent believers in the essential soundness of such a method of dealing with Old Age Pensions as that favoured by Mr. Charles Booth, assigning equal amounts to all who choose to demand them, regardless of need or merit; and yet confess that, at the present time, or as a first step, some other system is better than total inaction, if lack of adequate funds prevent us from doing all that we desire.

What is the actual financial burden of the pension scheme in Denmark, and can we frame any estimate of what a corresponding scheme, with suitable changes, might cost in Canada? To the first part of this question the answer is supplied by the accounts for the year ending March 31st, 1906. For that year the total outlay on the special Old Age Relief in Denmark was just over $2,000,000. Of this, one-half fell on local authorities, one-half was paid out of the general revenues of the country. With a population estimated at about 2,600,000, the total burden works out at about 80 cents per inhabitant. In Canada this would mean, about five million dollars, in round figures. But it is necessary to observe that the average payment per person (including dependents) was only about thirty dollars, and this sum would certainly be regarded as inadequate in a country where living is as expensive as it is in Canada. With similar numbers claiming help, we should have to spend three to four times as much on supporting them, or fifteen to twenty millions of dollars. This figure, however, is not to be taken as a final estimate, for we have yet to consider how the numbers of possible, and of probable, pensioners would compare.

In 1901, Denmark had nearly 10 per cent. of her population over sixty years of age, while less than 8 per cent. of the Canadian population were above sixty. Like proportions of those at the ages at which pensions might be claimed would therefore reduce our estimates by one-fifth. If we take account, not merely of the relative numbers over sixty, but of the way in which these numbers are distributed over the ages 60—65, 65—70, and over 70, the relatively small number of old people in Canada makes itself further felt in a substantial reduction, so that we need to reduce our estimate of cost, from the 15 to 20 millions named above, by over one-third, or, say, to a figure of from 10 to 13 millions of dollars, according as we regard the necessary allowance in Canada as properly fixed at three or four times that found sufficient in Denmark. This provides for a total of about 110,000 pensioners, including dependents, if we estimate an increase in the aged population, since the last census, of about ten per cent. As the immigration contributes little to the aged population at once, this should be a sufficient allowance. Were a residence of (say) twenty-five years in the country needed to qualify for a pension the numbers eligible would suffer some diminution. It might also be supposed, though with less certainty, that the level of general welfare in Canada is high enough to prevent as large a proportion of old people finding themselves in need of assistance as is the case in Denmark. The figure of expenditure which has been quoted above represents the level reached after fifteen years of operation of the scheme. It was not until the fifth year that the annual outlay exceeded the half of the amount quoted above. In the earlier years of such a scheme, therefore, as has already been pointed out, the outlay might be expected to stand at a figure much below that which is presented as a rough estimate of the possible cost when the plan had got into good working order.

One of the favourite indictments of such plans as that followed in Denmark is that they must necessarily tend to check saving, and to discourage children from rendering what aid they can to smoothing their parents' declining years. Let us examine these contentions in the light of experience. The former view has been confidently maintained in England, and I have heard it put forward in Denmark, though in both cases its basis seems to be found in theoretic rather than practical considerations for the most part. If, it is said, the state undertakes to provide for me after I reach sixty, why should I deny myself the small luxuries of life to save the taxes? It is contended that this is the probable drift of the reflections of the wage-earning classes, at any rate. But it is just at this point that one of the conditions of eligibility for a pension in Denmark, as contrasted with poor-law relief, becomes of importance. To qualify, a clear record of independence of public funds for a period of ten years—that is, between the ages of fifty and sixty—is required. Where no system of poor-law relief exists, an equivalent test might be hard to devise and apply. But it has proved of very great importance in practice. The purpose for which a man saves may be changed without diminishing the extent of his savings. It may even be that saving is stimulated by the realization that the purpose for which it is needed is nearer, more attainable, more definite. To provide for an indefinite old age may seem a task too large to be successfully attacked, and the uncertainty of life may discourage the attempt to make a provision which, to meet the possible contingency of long life must be large, while if life prove short it will not be needed. To look forward to the years between the reduction or cessation of earning power and the qualifying age for a pension is altogether a different matter from looking forward to the end of life. The provision needed is limited, the hope that it may be enjoyed is great in proportion as the time when it is needed is near. These considerations seem to have had their effect, and to be capable of offsetting in whole or in part the discouragement to saving which necessarily flows from an assurance of support independent of saving. The influence of the stimulus to provide for oneself may easily be felt beyond the years preceding sixty. Love of independence is an important sentiment, and, if judiciously encouraged, may grow to dimensions exceeding what was originally contemplated.

That love of independence remains a strong characteristic of the Danes is evidenced by the fact that only 8 per cent. of men between sixty and sixty-five were found on the pension roll in 1905 (the latest date for which these data are available). Between sixty-five and seventy the proportion was nearly 19 per cent. of the total, while of those over seventy, close to 30 per cent. were pensioners. Of women (other than wives, who would be classed as dependents on their husbands) a much larger percentage of pensioners is recorded. Between sixty and sixty-five about 1 in 5, between sixty-five and seventy, about 1 in 3, and of those over seventy years of age, not far short of 2 in 5 are found on the pension roll. The self-supporting woman, owing to the low level of women's wages, cannot make a provision for old age as readily as men can. And we have also to take account of the greater longevity of women, resulting in many being left, in old age, without the support of those on whom they had depended for their maintenance. What is notable in these figures is that so large a proportion of those who ultimately secure the assistance of the pension fund contrive to struggle along without it long after they have passed the qualifying age. It seems to suggest that the spirit of independence has not been undermined in a very serious degree. The proportions of pensioners at all ages are higher than they were in 1896, and so far the change is ominous. But some growth was certain, and the small figure of 8 per cent. for men taken between sixty and sixty-five is a strong testimony to a surviving sentiment in favour of self support. In the cities the corresponding figure is even lower.

The higher figures for women are, as has been explained, the result of a comparison of actual with possible claimants of pensions. If we compared all women, including wives of pensioners, with the total of women at pension age, the results would not contrast so unfavourably with the men's figures. Even among men, the married appear to yield a rather lower proportion of pensioners than those who are alone in the world in their old age.

This indirect indication that thrift has not been so seriously affected as some critics suggest may be supported from the evidence of savings-bank returns. Gentlemen of weight have publicly stated in England that people are decreasing their savings since the introduction of the pension law. But these statements hardly bear comparison with the only facts which could be held to justify them, namely, the actual figures showing the position of the accounts of savings banks. Here we might take the gross figures and compare the total savings of about ninety million dollars in 1882 with the growth by forty-six millions in the nine years before the law, by thirty-eight millions in the first six years of its operation, and by forty-eight millions in the following nine years to 1906. As so large a part of these gross totals consists of large deposits not really touching the question of saving by the mass of the people, we will not delay over such a comparison. The returns make a useful division of accounts under and over $500 (more precisely the equivalent of 2,000 kroner, the limit in question, is $536). Such a division will separate small savers' accounts from other balances. These small accounts are a little over 92 per cent. of the total number, substantially the same proportion as ten years ago. In amount they comprise only about one-third of the aggregate of deposits in savings banks.

Dealing, then, with the accounts under $500 in amount, we find they amounted, in the aggregate, to about fifty-one million dollars in 1891, when the pension law came into operation. In the first six years of its operation they increased to sixty million dollars, and in the nine years, to 1906, they further increased to seventy-four million dollars. In the nine years before the law was enacted, the increase was about eleven million dollars, in the latest nine years, thirteen millions. The increase per head of the population in these equal periods has been more than maintained. Here, then, is direct evidence of persistent thrift. It may be as well to add that the number of accounts has increased by, roundly, fifty per cent. since the law came into operation, while population has increased by between 18 and 19 per cent. Saving is, then, more widespread. The average of about sixty dollars to the credit of each of the accounts under $500 may not be large, but it may usefully be compared with the average of $30 per annum for each of the beneficiaries under the pension law.

The degree in which the spirit of self-dependence is exhibited by Danish workmen may be illustrated by an incident of which I was an interested observer a little over eight years ago. A great lock-out had occurred in Copenhagen, affecting some 20,000 bread-winners. It endured for fifteen weeks. But the report of the officer in charge of poor-law relief showed that, of recipients of relief who had not received help from the same source before, there had been—just 18. In addition to these some twenty or thirty families had been assisted by funds placed in the hands of the poor-law officer by a private benefactor. The official report seemed justified in the conclusion that the artisans of Copenhagen had not neglected to provide themselves with resources of considerable amount against a rainy day.

Such facts as these throw a curious light on the descriptions of Denmark as a country so poor that the need for a special public provision for the aged existed there in a particularly obvious degree, and, on the other hand, as a country whose thrift, as expressed in accumulated savings, was seriously undermined by the easier terms on which the deserving destitute who are over sixty may now receive aid from public funds.

To return to a point previously mentioned, Denmark has made up her mind that she can afford to be kind to her deserving citizens who, in their old age, happen on misfortune. She has not been able to afford them much more in honourable pension than they could have had as pauper doles, and the amounts given have been by so much the less as the recipients possessed other resources. Hence has arisen a crop of complaints from students of social problems and others. They point out that children or other connections who feel a moral obligation to help old people belonging to them, are now discouraged from doing so by the knowledge that regular gifts from them would relieve the public purse without giving greater comfort to the person assisted. Such help is more largely withheld, therefore, than one would wish to see, or at any rate, no such help is given with regularity, or so as to be able to be recorded among the resources on which the pensioner can depend.

So far the result is bad, and I do not know that it is greatly improved by the fact that the managers of many pension charities act on the principle of using the funds they can control as little as possible for the mere relief of the public purse. But as the charitable pension funds do not vanish, so, too, the private charity and the personal provision for old age have not vanished. What has happened is that all these efforts are directed, in greater degree than of old, to securing the years before age qualifies for a legal public free pension. The test of freedom from poor-relief for ten years must be fulfilled, and much praiseworthy effort to that end is called forth.

As experience has accumulated, changes have been introduced into the administration of the system from time to time. Further changes are in contemplation, involving an increase in the amount of relief given, and, consequently, in the burden on tax funds. The somewhat vague provision of the law, requiring the pension to be of amount sufficient to provide the necessaries of life, and treatment in case of sickness, for the recipient and for those dependent on him, has received an interpretation steadily more and more generous. Difficulties connected with this provision of the law, and with the application of the tests which discriminate pensioner from pauper, are not inconsiderable. To give to all the amount given to the really and entirely destitute, merely on proof of being deserving, or on proof of need, still more on simple application, would simplify the problem, and might remove some of its dangers if it introduced others in their place, but—can the country afford to be so generous? Are the evils of the existing plan in the way of demoralizing tendencies really serious? Are they such as to render Denmark's example a warning what to avoid rather than a model to imitate? Does it teach us that it is better to harden our hearts to the miseries of the deserving but indigent aged, than to give before we can afford to give alike, and amply, to all who desire to accept such a gift?

On the whole, my careful study, almost since it was instituted, of the Danish system, leads me to a conclusion the reverse of that which prejudice, and an inadequate theory, had impressed on me before I knew how the matter really worked in practice. Every country, however, has its own peculiarities, and what succeeds in one way may be unsuited to another. A simple copy of any foreign system might prove a colossal failure. It is worth while noting, however, that if effort to provide for oneself be regarded as entitling to aid from the state, we must recognize many different manifestations of such effort. The ownership of property, of a savings-bank account, of an endowment insurance, are not the only evidences of thrift. To have reared a family in independence may exhaust the resources of many worthy citizens.

The social conscience is awakening to the recognition of general responsibility for some conditions of the modern system of production, which was not felt under the conditions of former times. This fact would serve as an excuse for presenting for consideration some features of an interesting experiment of a kindred people, even if the public inquiry referred to in the opening lines of this article had not stimulated interest in the matter.

A. W. Flux.

THE OPPOSITION TO ORIENTAL LABOUR.*

FOR better or for worse, the Oriental labourer has acquired a recognized position in the labour market of the Pacific Coast. His presence there is an accepted fact. As such, he deserves study. And now that he is no longer the subject of a possible international dispute, the task of trying to understand him in his relation to labour conditions in the West, becomes so much the easier.

The first enquiry one usually hears about the Chinese or Japanese labourer seems to take it for granted that the Pacific Coast, as a whole, is hostile to him. "Why is it," people ask, "that the Japanese are so much disliked?" And then, as if no other solution were possible, the suggestion is readily accepted that racial incompatibility must account for the trouble. To both of these views we have to take exception. The opinion that the Pacific Coast, as a whole, has a special repugnance to any but white labour, or, indeed, any but white people, is manifestly incorrect. But to explain this supposition on the ground that colour is at the root of the difficulty, is even more absurd. Anyone who has lived through the tumult of a great strike, and has seen the abuse heaped upon the scab and the strike-breaker knows perfectly well that the animosity engendered in a labour dispute is more than skin deep. Colour, or, indeed, nationality, is no necessary bar to friendliness or good relations among labourers; at the same time it is no necessary ground of hostility. The colour theory is a misconception which it is well to clear away before going further into the subject.

Other misconceptions there are, some of them perhaps quite serious, but space will not allow their consideration. We pass at once to examine the conditions which appear to be responsible for the social friction to which the presence of Oriental labour on the Coast gives rise.

There ought to be no hesitation in admitting at the start that the supply of certain kinds of labour falls short of the demand. This demand can be met by the use of Oriental labour. The case may be put more strongly by saying that if the sum total of Oriental labour now employed on the Coast were to be withdrawn it would create havoc. Also that many industries are now actually in want of the very labour which the Chinese and Japanese can supply. Further, it is impossible to conceive how white labour, "pumped in" at a forced rate for the next decade, can begin to meet the demand of the market. White labour is not easy to "pump in." The Coast has its attractions for two classes of producers: for large capitalized industries, whether agricultural or manufacturing, and for settlers who farm or trade on a small scale. The attractions which it holds out to labour as such are to be found in the city districts rather than in the country at large.

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* **Taken from a paper read before the Political Economy Club of Montreal, by Dr. C. E. Fryer.**

This distinction is of some importance in relation to our subject. White labour goes into mining, and logging, and into various kinds of construction and machine work; but in everything of an agricultural nature its employment is conditioned by the needs of a large annual crop requiring a large amount of labour for a comparatively limited space of time. In this the cultivator on a small scale has an obvious advantage; while for the cultivator on a large scale the labour problem involved in the harvesting is often very serious. Necessarily he must have recourse to floating labour; that is, labour that can be detached temporarily from other employment. If he be near a city he may secure enough of such labour from a section of the population which is glad to turn itself into the country for a month or so and take the ample wages which the growers offer. But in a less fortunate situation the difficulty of securing floating labour becomes pronounced—so much so that a very considerable portion of each year's crop goes to waste from lack of pickers. Herein lies to the large cultivator the advantage of Asiatic labour. It is easily mustered into gangs, it works by contract, it is inured to hardships of locality or accommodation, and, greatest merit of all, it can be held to a job till the work is completed. This topic of the necessity to the large cultivator of that form of labour which at present only Chinese and Japanese can supply admits of almost indefinite expansion. We must be content with only one or two observations.

In the first place, care has been taken to lay emphasis on the fact that the need of such labour is a present need. Will it always be wanted? To dispense with it, either one of two conditions must ensue. If the urban population of the Coast should grow to such an extent that enough hands could be diverted temporarily each year into the orchards and vineyards, labour might ultimately become homogeneously white. Again, if the number of cultivators on a small scale could be phenomenally increased by a yet larger influx of Portuguese, Italians, and Swiss-Italians, such as are already settlers in the State, the problem could be solved. Settlers of this kind tend to rear large families, and they readily embrace the opportunity of hiring out during the harvest season. But for the present the settlers are not there, nor is the urban population available. So it is not putting the matter too strongly to say that Asiatic labour is an absolute economic necessity.

Another observation: so far as may be ascertained, the employment of Asiatic labour in the country districts has given rise to almost no friction at all. This statement is made with the idea of drawing a distinction between the country and the city districts. What slight friction there has been can be explained very easily. It has been found that when on large ranches Chinese and Japanese gangs are employed together, trouble is likely to occur. There have been isolated cases of Japanese being unpopular in the beet-sugar districts. Such local disturbances might be attributable to a more or less well-founded objection in a farming settlement to the proximity of a Japanese camp. But racial antagonism would be the least plausible explanation of such occurrences, for the beet-sugar industry, which totals nearly 50,000 tons a year, depends largely on Japanese labour for cultivation. The Chinese in the country are distinctly on a better footing than the Japanese. Their work as cooks for mining, logging, and other camps, for large ranches, country hotels and the like, makes them an absolutely indispensable factor in the general economy. Everywhere they are treated with a certain respectful familiarity which in itself is sufficient evidence that their presence is desirable. Speaking generally, so far as the country districts go, Asiatic labour is a necessity, and its employment gives rise to no social friction whatever.

We come now to consider a much more complex problem—namely, the injection of an Asiatic element into an urban population. Here we have to face all the issues recently involved in San Francisco, and, in some degree, in Vancouver. No one has yet pointed out that practically all the friction to which Asiatic immigration has given rise owes its origin to urban or municipal conditions. Yet the neglect to make this distinction accounts for many of the misunderstandings and misconceptions of the whole problem. The conditions, indeed, are such as to aggravate rather than to mitigate the essential difference of race.

There is, to begin with, the question of domestic service, coupled, in the case of the Japanese, with the school problem, the two, of course, going together. Then, there is the presence of organized labour with its strong prejudices against any element outside its own ranks. Again, there is the question of an Oriental quarter, often unsanitary, and likely to prove a plague-spot. Then there is the actual competition between the smaller artisan class of both races, and, in some cases, of shopkeepers as well. Finally, the greatest disturbing cause of all, the constant stream of arrivals from the Orient, often at the rate of one thousand and over a month, and coming under circumstances which cannot but influence the prejudices and resentments of the labour unions, who feel that their whole position is compromised by unchecked invasions of a non-union element.

Some of these conditions call for special comment. To begin with the question of domestic service—anyone who is familiar with conditions on the Coast knows that the domestic service supplied by the Chinese and Japanese is invaluable. The wages they command range from thirty to fifty per cent. higher than the best wages paid to other domestics. In spite of this, the employment of Asiatics in that capacity in private houses has never given rise to friction. The question of domestic service, therefore, falls out of our discussion.

But the school problem brings up a more serious issue.

A very large proportion of the Japanese who go into domestic service do so, not for purposes of earning a livelihood, but for paying their way while they are attending school. They are employed under arrangements which permit of their being at school during the school hours and of having their evenings for study. For most of them the chief object is to acquire a knowledge of English, which necessitates their being graded into classes with boys and girls of a tender age. This mingling of men of from eighteen to thirty years of age with girls and boys from nine to twelve is naturally a repugnant thing. We cannot here enter into a discussion of this phase of the subject, except to note that San Francisco, by being over-generous in the matter, brought on herself, most ironically, a heap of abuse and villification most unmerited. For, be it noted, it would have been a simple matter to have carried a by-law to the effect that no pupil over the age of nineteen or twenty years of age should be admitted to the grammar schools. That would have settled the whole difficulty. Vancouver has such a by-law, the age limit being sixteen years. But San Francisco (not wishing to deny anyone the privileges of education) adopted a different plan. The city segregated the Japanese from the grammar schools, and gave them a school building to themselves. It should be pointed out that they were not to be taken from the High Schools or from the night schools, but only from the grammar grades which children ordinarily leave at the age of from fourteen to fifteen years. The occasion for carrying segregation into effect was opportunely chosen. All the school buildings within a space of the sixteen square miles of devasted district had been destroyed. A majority of the families, perhaps, who accommodated Japanese school-boy servants had either left the city for the suburbs, or, if they remained, were without the means or the house even, to keep a Japanese servant. From these causes the number of Japanese actually attending the grammar schools had fallen as low as ninety-three; probably the lowest point in many years. As temporary buildings were being erected to keep the school system going, it was thought that one of the buildings thus provided might be set aside for the Japanese. The explosion which followed—known in newspaper history as the San Francisco Incident—is familiar to everyone. The details of it are scarcely in place in such a paper as this, and the sole reason for touching upon it here is to illustrate one source of friction which inevitably arises when the privileges of the democratic school system of the Coast are thus ungraciously abused. It only serves to aggravate the situation that the abuse is to be kept up by diplomatic pressure brought to bear upon the central administration at Washington, which mistakenly treated the subject as a labour unionist agitation.

And this leads to a further point of consideration. Statements have been made to the effect that Oriental labour does not enter into competition with white labour and that the scale of wages for both is the same. The statement is not altogether true. The recent phenomenal influx of Japanese to the Coast brought over not only unskilled labourers but many who entered into direct competition with the artisan class. For example, in San Francisco, union carpenters were paid all the way from four dollars a day up, but Japanese carpenters may be had from two and a half a day. Again, in such work as shoe repairing, Japanese cobblers ask far less than the American. Nor should it be forgotten that the two do not compete on equal terms. The American cobbler may have a wife and children. The children he has to educate. There are expenses for rent, for the church, for all the things that go to help his family keep their social position. The Japanese is not so encumbered. Probably a single man, he lives on next to nothing, and carries his savings back to Japan. Without attempting to debate the question thus raised, it is enough to suggest that the labour union advocate is not without reason in regarding the presence of this non-union element as undesirable.

In view of the extreme tension of feeling between the union and non-union ranks, it seems really remarkable that, with the exception of Vancouver, the Japanese have experienced so little violence. It is true that in San Francisco there have been disturbances in which Japanese have been involved—but it is to be noted that these disturbances—which the press has raised to the dignity of riots—were never directed against the Japanese *as* Japanese, nor, in any single case, were they deliberate or premeditated. They happened, as any back-alley brawl might happen—and the fact that Japanese were involved was purely accidental.

We now pass directly to consider those causes of preconcerted violence which, both in San Francisco and Vancouver, brought the immigration question to a crisis. In more than one respect the Kearney riots of the early Eighties, in San Francisco, and the recent outbreak in Vancouver may be traced to a common cause. The phenomena to be observed in both instances bear a striking resemblance. Without going too much into detail, it may be remarked that the circumstances and conditions under which immigrants land at the ports of entry are of a nature to inflame the prejudices of labour-union men. In San Francisco, for example, where the traffic for Japanese labour in California is centralized, and where contractors and employment agencies have their headquarters, large gangs of Japanese can be seen arriving and departing daily—sent here and there on contract work to any part of the State. To the average workingman, the spectacle of these gangs is certainly not reassuring of the dignity of his calling. But when, in addition to this, he actually sees every steamer from the Orient bringing its load of human freight, all going to swell a system of labour which he thinks degrading—is it any wonder that he lets his imagination wander to the danger point, and feels impelled to strike in self-defence? Such was the state of things before the Chinese Exclusion Act went into force in the States. San Francisco was the great port of entry for the traffic, and the Chinese, to use the words of a contemporary, "kept coming and coming and coming." If they had been landed in another part of the State and expeditiously distributed over the country the case would have been different. But each shipload added to the mass already congested at the port of entry and served to heighten the panic springing from the fear that eventually white labour would be swamped by mere numbers of Asiatics. The Chinese Exclusion Act served to allay this panic, and to reassure the labouring element that the huge influx of Orientals was to be kept within proper bounds and restrictions. In Vancouver the phenomena are very similar. It may be questioned whether British Columbia will in the end want to exclude Japanese labour entirely. But the present conditions of their unloading at the port of entry have been such as to precipitate a serious local panic. And this panic needs to be allayed; it cannot be suppressed.

To return now to the course of our argument, it may be concluded that in general the presence of a large Asiatic labour element in an urban population may give rise to considerable friction. But the case of San Francisco, which is filled with an unruly foreign element, only goes to show that the friction is really much less than might be expected, though, of course, serious enough in its consequences. A Chinese and a Japanese quarter in a city can only with difficulty be restrained from being a source of social disturbance. And when to that is added the aggravating fact that immigration goes on in a seemingly unchecked manner, is it at all remarkable that a social hysteria is developed which for the time being throws reason and restraint aside?

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In this very rapid sketch it has not been possible to do more than give the subject a general outline. But if the outline offered here is adequate to the question as a whole, the ground for discussion is evident. Setting aside all extraneous issues, the one main issue stands out in more or less clear perspective. (It is idle to talk of the brotherhood of man, or any such "long-distance" remedy. The brotherhood of man will not prevent a riot if there is any cause for a riot to break out.)

Division of opinion, so far as it exists, diverges upon this issue:—Is the need of more Oriental labour on the Coast of sufficient moment to make it worth while to run the risk of social friction,—or is the social friction likely to attend further immigration of sufficient moment to justify a continuous shortage in certain branches of the labour market through cutting off part of the supply? By laying emphasis upon the paramount need of more labour, we get ourselves to the point of regarding the disturbances attending immigration as reprehensible. On the other hand, by placing the emphasis upon the paramount need of avoiding friction we easily bring ourselves to think that a shortage in the labour market is likely to be the cheapest way of purchasing peace.

This latter view, which finds its strongest advocates on the Pacific Coast, is not the one generally held in the East. For this reason it seemed essential to go at some length into the question of friction in order to judge of its significance.

The result seems to show the danger which arises from the presence of an Oriental element in an urban population. While the country at large may turn to the Orient to solve its labour problem, the city, and especially the port of entry, has to incur the heavy responsibility of keeping the peace, both local and international. One cannot help feeling that the responsibility which the city has to incur in this matter deserves more consideration than it has hitherto received. The school question, the question of sanitation, the question of competition with the artisan class, the question, even, of breaking the international peace on account of some unforeseen outbreak, are not problems which can be dismissed with the curt advice to strengthen the police force. Labour which has to be protected by a police force is too expensive labour for a western community. It seems to me it is but due to the cities of the Coast to allay to some extent their apprehensions, with the assurance that Asiatic immigration is to be placed under adequate restrictions, and that the Government will never let it, in point of numbers, get beyond control.

C. E. Fryer.

WRONG DELIVERY OF GOODS BY RAILWAYS.

Interesting Judgment.

THE Union Bank of Canada recently figured as the plaintiff in an action against the Central Vermont Railway and the Quebec Southern Railway. Previous to the hearing of the cause by a special jury, the Montreal *Gazette* said of this interesting suit:

"Hearing of two joint actions over goods alleged to have been shipped from the Northwest and wrongly delivered by railroad companies was begun at the Superior Court yesterday before Mr. Justice Saint-Pierre, assisted by an English-Canadian jury. This is the second commercial case that has been referred to a jury for adjudication since the beginning of the year. During the last three years that have recorded a considerable increase in the number of civil jury trials, scarcely any other litigation has been settled in this way, except actions for damages resulting from accidents. The law, nevertheless, allows the same mode of trial in commercial cases as well as in connection with suit for offences against property, and the fact that litigants should avail themselves of these provisions shows that jury trials are gaining favour, despite the criticism that has been passed of late on their results.

"The plaintiff in the two joint actions that are now being heard is the Union Bank of Canada. One of the suits is directed against the Central Vermont, and the other against the Quebec Southern Railway. The bank seeks to obtain from the defendants about three thousand dollars for flour that was shipped from Crystal City, Manitoba, in 1905, to St. Brigide. The shipment was made by Messrs. Thos. Bulloch & Co., millers, to Messrs. Denis & Co., of St. Hyacinthe, on a sight draft, payable at the order of the bank. In the course of 1905, it is alleged two carloads of flour, valued at $857 and $752 respectively, were shipped in this way via C. P. R., as far as Farnham, where the goods were transferred to the Central Vermont for transportation to St. Brigide.

"The railway is charged with having delivered the flour to Messrs. Denis & Co. at St. Brigide without the production of the bill of lading, which was then in possession of the bank, and without the bank's consent. It is also claimed that in the case of the first shipment, the Central Vermont Railway failed to notify the bank of its arrival. The Canadian Pacific Railway, by the terms of its bill of lading, assumed responsibility for the goods in respect to loss and misdelivery till they were transferred to the other company at the junction point, and it is contended that this responsibility devolved on the Central Vermont from the time that it took the goods over. The bank accordingly seeks to hold the Central Vermont responsible to the extent of the value of the two carloads, namely, about $1,500, as well as the Quebec Southern on the same amount for similar reasons, alleging that not only by contract of law, but also by custom of trade, the railroads were bound to deliver the goods to the party vested with the documents of title, that is to say, to the bank itself, which claims it was the real consignee by virtue of the bills of lading being made payable there before the Messrs. Denis & Co. were entitled to get the goods.

"The Central Vermont is represented by Mr. Gordon MacDougall, the Quebec Southern by Senator F. L. Beique, K.C., while Messrs. George Montgomery and D. J. Angus appear on behalf of the bank."

The following judgment was rendered for the plaintiff bank on the 29th February, by His Lordship Justice St. Pierre, in the Superior Court, Montreal:

The Court, having heard this cause with the assistance of the special jury empanelled to try the issues of fact herein; having examined the record and especially the answers of the said jury upon the questions submitted to them and deliberated:

Seeing the plaintiff sues the defendant for the sum of $1,610.00 for damages suffered for the non-payment of two drafts representing the value of two carloads of flour, the plaintiff alleging that during the months of June and August, 1905, two carloads of flour were delivered by the *mis en cause* to the Canadian Pacific Railway Company at Crystal City, in the Province of Manitoba, with instructions to advise Alfred Denis & Company, St. Hyacinthe, Quebec, the first carload of the value of $857.50, instructions were given to forward the same to Ste. Brigide, Province of Quebec,— the second carload of flour, of the value of $752.50, instructions were given to forward by the way of Ste. Brigide, Province of Quebec; that said carloads of flour were to the order of plaintiff, the *mis en cause* at the time of shipment, receiving from the Canadian Pacific Railway, a bill of lading covering said two carloads of flour, which bills of lading *mis en cause* forwarded to the consignee, the plaintiff herein, with sight drafts attached for the respective sums; that said two carloads of flour were delivered by the Canadian Pacific Railway to the defendant, at Farnham, in order to be forwarded to Ste. Brigide aforesaid; that defendant took possession of said goods under the terms of the bill of lading of which defendant had full knowledge; that defendant wrongfully delivered said flour to the said Alfred Denis & Company, or to some person other than plaintiff, without the consent of plaintiff and without the production of the bill of lading, and owing to the negligence of defendant plaintiff never received delivery of said goods;

Seeing that the defendant pleads in substance alleging and admitting that it received the goods in question, and delivered them to Alfred Denis & Co. on their arrival, as per bill of lading; that defendant admits that the said Alfred Denis & Co. were advised of the arrival of the goods, and who were the agents of the shippers, and the goods were sold and consigned to them with authority to deal with them as they saw fit; that said A. Denis & Co. were given credit by *mis en cause* for the value of said flour; that *mis en cause* knew that the goods had been delivered by A. Denis & Co., that the plaintiff was instructed by the *mis en cause* to withhold said drafts to accommodate A. Denis & Co., but plaintiff has no right to said drafts, which have been paid; that the price and value of said goods have been settled by the firm of Alfred Denis & Co.

Considering that the jury empanelled to try the cause has determined that the plaintiff has not been repaid any amount by it advanced on said goods or said bills of lading, and that the *mis en cause,* T. Bulloch & Sons, have been paid by Alfred Denis & Co. $170.07, which sum is to be divided *pro rata* in $3,989.55, to wit, on the sum of $1,610.00 claimed in the present suit and on that of $2,379.55 claimed by the said Union Bank of Canada from the Quebec Southern Railway Company *et al.,* in a suit bearing the number 1184 of the records of this court, which said last mentioned suit was joined to the present one for the purpose of trial, said two sums forming a total sum of $3,989.55 as aforesaid, leaving a balance due on the said two consignments of $1,541.37.

Seeing plaintiff's motion for judgment in accordance with the verdict:

Doth grant said motion and doth maintain plaintiff's action, and doth condemn defendant to pay to plaintiff the said sum of $1,541.37, with interest thereon from 23rd May, 1907, date of service of process herein, until paid, and costs.

(Sgd.) H. C. SAINT PIERRE,
J.S.C.

If the outcome of this case leads to greater care being displayed by railway agents in the delivery of goods, the Union Bank of Canada will have rendered good service to the banking and commercial community.

J. K.

COMMERCIAL TRAVELLERS AND DRAFTS ON THEIR FIRMS.

I SUPPOSE there is scarcely a bank manager in Canada but who is favoured once a week at least, by a call from one "of the boys on the road," who, with "the smile that won't come off," asks to have a draft cashed, drawn by himself upon his firm, to help him over a difficulty, caused by his cheque for expenses (for some unknown reason, as the mails have been very regular) having been delayed. The genial manager, after shaking him warmly by the hand, and thanking him for the good cigar he has so kindly handed out, is only too delighted to do anything for one in such circumstances, as he well knows what it is to be short of ready money himself, but, as he explains to the party asking for the accommodation, "I must ask you to get a responsible party, who is known to me to endorse for you, as, of course, you are a stranger to me." This changes the tune, and also the smile that was warranted not to come off, to one that does. Strange, he has travelled for years, and has had hundreds of drafts cashed by different managers all over the country, and, although it seems almost incredible, this is the first time he has been refused money on his own name. As far as asking one of his customers to endorse for him, why that is out of the question. Will not identification do? No, it will not. The bank manager is being asked to take too great a risk for a mere stranger for a nominal exchange, and then again, it is against instructions from the head office to cash drafts for any but regular customers, unless endorsed to the satisfaction of the manager.

During my experience in banking I have seen two or three cases in which customers have lost by endorsing for commercial travellers. In each case these have been travellers who have done business in the town before, but, finally, through force of circumstances over which they had full control, they lost their "job." Not knowing what to do for a little ready money they cashed drafts on their old firms by making use of the customers whom they knew well from frequent visits to the town. One case I can recall quite easily was that of a traveller who spent several days in a certain town booking orders; when he was through he needed a little money as his cheque had not arrived. Making use of a good natured customer, he had him endorse for $50.00. This obtained, he said farewell to the customer and the customer to the money. The draft was protested, the traveller gone, and the customer stung. It came to light afterwards that this slippery genius had been discharged for previous crooked work, and, as he was on his way to the States, used the fleeting moments to do up his old friends. He had his certificates with him, and also forms from his house, showing that he was supposed to represent it still, but that did not recall the money for the unfortunate endorser.

It seems to me that the banks should unite and make a uniform rule that no drafts will be cashed for travellers, either with or without the endorsement of a customer, as, to my mind, the banks should not allow their customers to take risks merely to appear obliging. Make it a rule that whenever a traveller asks for an accommodation, that he be asked for his "Letter of Credit" from his firm's bankers, and which was handed him before he left on his trip. If he does not carry one, it will be apparent that either something is wrong, or that his firm does not want him to draw upon them; or, if he does, they do not in any way bind themselves to pay his drafts.

If each branch of the banks would see that their customers' travellers were supplied with an "Inland Letter of Credit," it would do a great deal towards weeding out a number of small losses that are made each year by the banks as well as their customers. When a man needs money badly, he is sometimes not too particular about how he gets it, and as we have seen in the past, so will it be in the future, that when a crook starts on the war-path, some are sure to suffer. If care were taken in this branch of banking, and a system of "Inland Letters of Credit" instituted by all the banks, the day of losses in this particular line would be past. All bankers know each other's stationery, and as nearly all banks use safety paper in their negotiable security forms, there is little danger of forgeries.

A copy of the party's signature to whom the letter is made payable is attached at the foot of the letter, and, as cautious bankers do not make it a practice to cash cheques or drafts for strangers, unless they can identify themselves to the bank's satisfaction, no risk is run by this system of handling commercial travellers and their drafts. This is a subject that needs pressing, and if all bank managers would take the matter up and in turn impress upon their customers the need of supplying a "Letter of Credit" to each of their travellers, against which they may issue drafts, and at such intervals, and for such amounts as the letter stipulates, it would not be necessary for bank managers to take any further chances on strangers. Make if a strict rule, and one not to be deviated from: "No letter of credit, no cash."

This system could be started by all the banks and placed in working order in a very short time, and I feel sure that instead of the annoyance caused by refusing travellers cash on their own drafts, or having them obtain endorsement, that it will be a pleasure to do business with them, and all concerned will feel that business is being properly done, and that it is not a favour that is being asked, and either granted or refused, but, on the contrary, a regular part of banking practice.

H. C. ANDERSON.

GETTING A BATH AT GOLDFIELD.

A man from Goldfield recently told an amusing story about a bath he tried to get in that lively little mining town. He said he went into the place and was given a ticket in exchange for his money.

"But, see here," he said, "I don't want a bath ticket—I want a bath."

"Oh, you'll get a bath all right," said the bathhouse manager. "Let me see your ticket. No. 813. There are 812 persons ahead of you. Come around in three or four weeks."—*Washington Post.*

VEILED OATHS.

THERE has recently been a little crusade against profanity. The zeal of the crusaders is commendable, though it might be more effectively directed against one or two evils that are more dangerous to the body politic. Certainly oaths that shock us by their vulgar irreverence are too frequently heard in our streets. These should be frowned down and punished as indecencies. But any attempt to suppress expletives generally would be vain and quixotic. All nations use them, and the milder ones may be viewed as safety-valves to the excited feelings—as noisy outburst of steam that may prevent more serious explosions. Pity they could not be confined to such harmless exclamations as "bother!" or "hang it all!" or, if it requires more drastic words to voice our fervid emotions, why not try something that is awful without being profane? Why not exclaim, "Thunder and lightning!" as foreigners exclaim "Donner and Blitz!" and "Foudre, tonnerre!" Or we might relieve our pent-up feelings by some less hackneyed ejaculation such as "Fire and furv!" or "Quaker and cataclyssus!" Some people have indeed succeeded in confining themselves to such scriptural expletives as "Suffering Moses!" or "Jumping Jehoshaphat!" and have thus managed to obtain an innocent flavour of profanity.

But, unfortunately, it would seem that among all nations the most natural word to rise to the lips in moments of sudden and intense emotion is the name of the Deity. The exclamations "Ach Gott!" and "Mon Dieu!" are conventional among the Germans and French. Usually, however, the misuse of the sacred name is deemed sacrilegious, and to avert the consequences of such profanity scores of substitutes for it have been invented and adopted. We have "by gad," and "egad," "by gosh," and "by gum" ("gom" in some dialects); the Irish "bedad," "begor" and "begorra." The disguise is more complete in "agad" and "ecod," the former used by one of Fielding's, the latter by one of Sheridan's characters. "Lawks," "O lor," "O law," "O lud," "O land," are all clearly evasions of "Lord." The name of the Deity is again avoided in the ejaculations, "Great Scott!" and "So help me, Bob!" Many years ago, when Godfrey C. Gunther was mayor of the Empire City, New Yorkers often used his name as an expletive, with a wicked emphasis on the first syllable. I knew an Anglo-Indian who sometimes swore by the river Godavery, also with a lingering accent on the first three letters. "'Sdeath," "'slife," "'sblood" and "zounds" are, of course, abbreviations of God's death, life, blood and wounds, as the obsolete "'snails" is of His nails, *i.e.*, the nails of the Cross. "Oddsbodikins" and "oddspitikins" are diminutives of "God's body" and "pity." "Oddsbobs" was another way of swearing by His body. The grotesque "uddsblud" and "tare and ounds" refer respectively to the blood and to the tears and wounds of the Divinity. Of course most people using these masked oaths do so ignorantly and innocently; but how those inventing such flippant variations on the sacred name could have expected thereby to mitigate the guilt of swearing, it is hard to conceive. "God is not mocked" is apparently a text in which they disbelieved. He is unlikely to be placated either by misspelling His name as Gad or by mispronouncing it as Gawd.

Few ladies fancy when they exclaim "Oh my!" that they are eliptically swearing by the Deity. When they say "Oh dear!" or "dear me!" few of them are aware that these phrases were evasions of the Italian oaths, "O Dio!" and "Dio mio!" "My goodness!" and "gracious goodness!" are more transparent substitutes. The Oxford Dictionary informs us that "Jingo," in the phrases "by Jingo" and "by the living Jingo," is probably derived from "Jincoa," the Basque name for God.

The French begin one or two of their oaths with the word "nom" (name) or "sacré nom," which gives them a second for repentance, in which they sometimes substitute "d'un chien" for a more solemn word. They used sometimes to veil the sacred name in their expletive "pardi" and to soften "mort de Dieu" into "mordieu!"

Swearing by the Second and Third Persons of the Trinity seems more wilful and deliberate, for it is the name of the Deity that rises most spontaneously to the lips when something startling takes one off one's guard. And it is perhaps on account of its more intentional irreverence that this low and offensive form of profanity has adopted fewer disguises. Yet we find "gis," an evident abbreviation of "Jesus," in Shakspeare, and Irishmen swear by "jabers"—a word that has some resemblance to the Irish pronunciation of its original. What is meant by the American oath "Holy G!" or "Hully G!" is only too plain.

Believers are more apt to soothe their ruffled feelings by invoking the gracious Virgin than by swearing by her. Yet her gentle name is not exempt from irreverence, veiled or unveiled. The expletive "marry," we know, meant "by Mary." The patronizing "by 'r lakin" (Our "ladykin" or "little lady") is found occasionally in the Elizabethan dramatists. The French ejaculation "dame!" is an abbreviation for "Notre dame!" having no connection with the wicked English word which it so closely resembles in sound and appearance.

To evade the use of this wicked English word, people say "darn it," "dang it," "dash it." "Blamed" acts as a substitute for the same word and also for "blasted." "Bally" is a somewhat squeamish evasion of the coarser adjective "bloody." The American expletive "tarnation" consigns someone to perdition, with perhaps a preliminary dose of tar and feathers. In "gol darned" two words are thinly masked. The generic term "curse" is itself softened into "cuss." "Bad success to you!" is shortened to "bad 'cess to you!" "Go to hell!" is expurgated into "Go to Halifax!"

The Greeks called the Furies the Eumenides (the Gracious Ones) to avert the wrath of these terrible goddesses. With similar intent our forefathers styled their mythic imps, who played so many mischievous pranks, the Fairies of the Good Folk. And, perhaps, it was this same reluctance to apply an offensive name to an evil spirit that made people invent so many flattering euphemerisms for the Devil, who is apostrophized by Burns,

> "O thou, whatever title suit thee,
> Auld Hornie, Satan, Nick or Clootie."

We sometimes call him *par excellence* (?) the Old Gentlemen. People exclaim "the dickens!" "the deuce!" and swear "by the Lord Harry," another of his noble names. Junius derives "the deuce," in this sense of the term, from *Deus* (God), but the Oxford Dictionary is not so flattering. It traces the word to the German *daus,* the card deuce, the lowest card in the pack. If the latter derivation is correct (as it probably is), the use of this term is defiant rather than conciliatory. And the amusing Irish imprecation, "May the devil admire you!" is certainly neither conciliatory nor flattering to the taste of His Satanic Majesty.

In contemplating the tendency of man to mask his profanity we may console ourselves by reflecting that such verbal hypocrisy is part of "the homage paid by vice to virtue." And this homage, whether to our credit or our shame, is, perhaps, more commonly paid by English-speaking nations than by any others.

F. BLAKE CROFTON.

MY DIFFERENCE; OR, THE LEDGER-KEEPER'S LAMENT.

Not in the tented field I toil,
  Midst pomp and blare of war;
Not on the boundless sea I brave
  The ocean's mighty roar;
Not by the bed of sickness I
  Do watch and hope and pray;
Not in wild revelry I waste
  The hours of sleep at play.

No time have I for war's alarms,
  Nor for the bounding sea;
The sick may droop and even die,
  They'll get no help from me.
No time for frolic or for fun,
  No time for food or rest;
A mark for scoffers' cruel wit
  And thoughtless fools who jest.

Oh! for some bold, brave Perseus
  Regarding my sad plight,
To come and cut the chains that bind
  And then assist my flight
Into the far Elysian fields
  Where Cash Books are unknown,
Where all is harmony and joy,
  And we reap what we've *not* sown.

There where all hateful memories
  Of Ledgers are forgot,
Where n'er a thought of Balancing
  Disturbs my happy lot,
Where Supplementary Cash Books are
  An unknown quantity,
Where Discount Books and Journals sink
  Beneath the crystal sea.

Where little white-winged cherubs are
  Our only customers,
Who play and sing and romp about
  Upon the golden stairs.
Oh! happiness that is not mine,
  Oh! joy for which I sigh,
Why am I not a smarter man?
  Why is it that I'm I?

C. E. B.

AUTOGRAPHIC EPITAPHS.

THE souls of the dead may or may not be conscious of what happens to their mortal remains. It is uncertain whether

> "How thy name will sound
> Will vex thee lying under ground."

But, nevertheless, it is a consolation to the living, or to most of them, to know that they will be buried in a fit environment, and that there will be some memorial to save their name from oblivion. The knights of old desired to be buried in their coats of mail and with their good swords by their sides; others preferred their armour to surmount their sarcophagus; the modern soldier likes the melancholy pomp of a military funeral, or, if he should fall in battle, he would fain sleep "with his martial cloak around him." The Romans, as they periodically decorated with flowers the urns holding the ashes of their fathers, doubtless felt a sad satisfaction in the assurance that their own ashes would be similarly preserved and honoured. As Chaucer says,

> "Yet in our ashen cold is fire yreken."

And down even to our unsentimental age the majority of men have continued to feel the same desire to leave behind some mementos or records of themselves. That the mementos might be as characteristic and beautiful as possible people have left money and directions for their monuments; and that the records might be just and fit, many men have written their own epitaphs.

Virgil wrote his epitaph in a modest couplet simply recording the classes of his poems and the places where he was born, lived, and died. Horace was contented with the "monument more enduring than bronze" which his works would prove, and declared with just confidence, "A great part of me will escape Libitina" (the goddess of funerals).

The well-known epitaph that Franklin wrote for himself was not placed upon his tomb:—

"The body of
Benjamin Franklin, printer,
Like the cover of an old book,
Its contents worn out,
Stript of its lettering and gilding,
Lies here—food for worms.
Yet the work shall not be lost,
For it shall (as he believed) appear once more,
In a new and beautiful edition,
Corrected and revised
By the Author."

James Lackington, a celebrated bookseller, proprietor of "The Temple of the Muses," in Finsbury Square, London, uses similar imagery in his versified epitaph on himself, which, in his Memoirs, he asks to have engraved on his tombstone. It ends thus:—

"Much had he read, and much had thought,
And yet, you see, he's come to nought;
Or out of print, as he would say,
To be revised some future day;
Free from *errata,* with addition,
A new and a complete edition."

The probability is that Lackington plagiarized the idea from Franklin, for the former was born in 1746 and died in 1815, while Franklin was born forty years before him and died in 1790.

In the epitaph written for himself, engraved on the mural tablet in Grosvenor Chapel, John Wilkes simply styled himself "a friend of liberty."

Fulke Greville, Lord Brooke, willed that he should be designated on his gravestone as "servant to Queen Elizabeth, counsellor to King James, and friend to Sir Philip Sidney." On the pedestal of Sir John A. Macdonald's statue in St. Paul's is inscribed his famous utterance: "A British subject I was born; a British subject I will die." John Gay's cynical epitaph in Westminster Abbey was written by himself:—

> " Life is a jest and all things shew it;
> I thought so once, but now I know it."

By his own instructions not a word but his name is inscribed on Daniel Webster's gravestone. Such instructions argue either the height of modesty or the height of self-confidence.

Both the inscriptions on Shakspeare's tomb at Stratford-on-Avon have been attributed to himself; erroneously so, it is to be hoped, for one is too self-assertive (if not too stilted) and the other too undignified to match his greatness. On the other hand, his own "Tempest" has furnished for his monument in "Poets' Corner" one of the most impressive inscriptions extant:

> " The cloud-capp'd towers, the gorgeous palaces,
> The solemn temples, the great globe itself,
> Yea, all which it inherit, shall dissolve,
> And, like this insubstantial pageant faded,
> Leave not a rack behind."

" Here lies one whose name is writ in water," which Keats directed to be carved on his headstone in the Protestant cemetery at Rome, has attracted to its despondent author an interest and a sympathy far greater than the most studied eulogy. The same may be said of the Latin inscription in St. Patrick's Cathedral, Dublin, in which Swift informs the visitor that he has passed "where bitter indignation can no further rend his heart."

Dr. Henry Hubner, who was still alive at this writing, has had his epitaph inscribed upon a bowlder, with a P.S.:—" Sorry I cannot leave my future address."

Memorable lines written by the deceased as appreciations of others, but appropriately placed on their own tombstones by pious hands, are the most enviable and striking of epitaphs. Thus, on the mural tablet to Felicia Hemans, in St. Anne's, Dublin, are written two quatrains from her "Siege of Valencia." which I quote from memory:—

"Calm on the bosom of thy God
Fair spirit, rest thee now;
E'en while ours thy footsteps trod
His seal was on thy brow.

Dust to its narrow place beneath,
Soul to its home on high;
And those that saw thy face in death
No more may fear to die."

Perhaps no grave in all the world has an epitaph and an environment so impressive as Gray's. Buried in the country churchyard of Stoke Poges, which he immortalized, around him "heaves the turf in many a mouldering heap," and he lies well-nigh "beneath those rugged elms, that yew tree's shade." And stanzas from his own unmatched Elegy form his epitaph. On one side of the monument is the quatrain commencing "The boast of heraldry, the pomp of power"; on another side is that which ends his epitaph on the rustic post—"No further seek his merits to disclose." And as on the grave of his village poet, so on his own, pious hands strew flowers even to this day.

"There scattered oft, the earliest of the year,
By hands unseen, are showers of violets found;
The redbreast loves to build and warble there,
And little footsteps lightly print the ground."

Not in St. Peter's, nor in St. Paul's, nowhere in fact save in Westminster Abbey, has the writer felt such a distinct sense of being on holy ground.

The Reverend William Adams, author of "The Shadow of the Cross" and other beautiful allegories, did not, indeed, write his own epitaph. But his work furnished an appropriate idea for the decoration of his grave at Bonchurch, in the Isle of Wight. "By a happy design," says his biographer, "his grave has the shadow of a cross always resting upon it."

* * * * * * * *

On more than one occasion a person wishing to have his merits commemorated on his tomb, but distrusting his own powers to do so effectively, has left money in his will to be awarded for the best epitaph upon himself. The result has seldom been just what the deceased would have desired. A century or so ago a Provost of Dundee, in Scotland, left a small sum for an epitaph. His three canny executors determined to keep the money in the town by furnishing the epitaph themselves, each to contribute one line.

"Here lies Dickson, Provost of Dundee," suggested No. 1.
"Here lies Dickson, here lies he," quoth No. 2.
"Hallelujah, hallelujee!" ejaculated No. 3.

F. BLAKE CROFTON.

FEMININE POLICE.

To what post may a woman not pretend to-day? They have just created at Christiania a body of feminine police.

When the enterprising burglar is a-burgling,
And engrossed in his nefarious little plans,
Sometimes he'll hear a silver laugh a-gurgling,
And gather, if he's sense, 'tis not a man's.
He'll succumb to the Law — with Beauty blending,
And struggle not, enfolded in its arms;
'Twill seem to him, no doubt, a joy unending
To be arrested by seductive charms.

A solace 'twill be in this pretty pickle
To know he's captured by a constablette;
When grabbed hard by the neck he'll gasp, "Dont tickle!"
And add a "darling," or perhaps, "my pet!"
And when he's safe in gaol—this is between us—
Snug in his mossy cell and hermit's grot,
He'll say of charming, sweet Policemaid Venus:
"That 'sperience was wuth a bloomin' lot!"

The above, set to the popular Sullivanesque air from "The Pirates of Penzance," will make a good comic song.

(EDITOR.)

CORRESPONDENCE.

To the Editor,

JOURNAL OF THE CANADIAN BANKERS' ASSOCIATION,

Montreal.

Dear Sir,

May I take the liberty of bringing before your notice the following point regarding the contents-matter of recent volumes of the JOURNAL.

As a subscriber of some ten years standing, I cannot help having noticed (as also have others) the growing scarcity of original contributions from the pens of fellow bank officers in comparison with the large number of interesting and instructive articles, essays, etc., which, some years ago, regularly found their way into its pages. A glance through the indexes of these recent volumes reveals the fact that the majority of contributions are credited to a small band of writers, of which a mere handful only are *bonâ fide* officers of our Canadian chartered banks.

It cannot be that the average bank officer to-day thinks, less highly of the JOURNAL than did his predecessor of ten years ago! Is it because many would-be writers desist from submitting contributions fearing lest, after all, their MSS. may be considered of insufficient merit, or unsuitable, for publication? Or, is it on account of doubt or difficulty in the selection of some subject of interest? (If so, in the words of a certain successful author, whose name has skipped my memory, I would say, "*Write about whatever you know best.*")

Surely there are many men in branch offices located in, say, the West Indies and Cuba, in the Yukon Territory and the great provinces of the North-west who are well able to write concerning local banking conditions, methods and customs, and of their own experiences, for the edification and entertainment of their more stay-at-home brethren? Little trouble, indeed, in finding a subject, they need but to recount what is going on around them, common-place though it may possibly seem to them.

It would be useful, I venture to think, to enquire as to the cause, or causes, of the marked decline in original literary effort to which I have taken the liberty of drawing your attention.

I am, Sir,
Yours very truly,
Montreal, An Occasional Contributor.

QUESTIONS ON POINTS OF PRACTICAL INTEREST.

Question.—Will you kindly inform me what responsibility you consider a bank assumes in the matter of letters addressed to tourists in its care? Would it be safe in handing out ordinary unregistered mail merely on application, as is done in the General Post Office, or should it insist on identification?

Answer.—The service is a gratuitous one, and we do not consider a bank assumes any responsibility whatever in passing out mail to an applicant. As a matter of fact, in most cases the parties are either known to, or bring letters of introduction to the bank.

Question.—A draws a cheque in favour of B, who endorses and delivers it to C shortly before B's death. C presents it to the bank after B's death; the bank, while holding funds, refuses the cheque.

(1) Is the bank justified in so doing?

(2) If not, is it incumbent on the bank to have C shew he became possessed of the cheque before B's death?

Answer.—Bank is not justified in refusing this cheque.

Question.—(1) Will the following stamp, signed by an endorser to a note, hold him to any subsequent note given as a renewal, no matter how many times the original note has been renewed without the endorsement, and without his being notified that the note was unpaid?

(2) Would it hold him, without his further endorsement, if he was notified on due date, that the note was unpaid?

> *For value received, I hereby guarantee the payment of the within note and any renewal of same to The Bank of Canada, and hereby waive protest, resentment and notice of protest thereof.*
>
> ....

Answer.—If endorser's name is missing on new note, it is not a renewal and the guarantee would not cover.

(2) The stamp, properly signed, is a guarantee of the note on which it is, and holds the guarantor without protest or notice. It is advisable, however, to have it signed by guarantor in addition to his endorsement on note, otherwise he might raise the question, that the rubber stamp was put on after he signed.

Question.—"A asks B to join him in a note for $100, that he (A) wishes to borrow that amount from C. B joins A on a joint and several note, made payable at a certain banking office in the town where all parties concerned live. C, from whom the money is got, to whom the note was given, does not put it in the bank at all, neither before nor after maturity, nor does he notify B at maturity of note, nor for some time after does B know that said note is still unpaid. B goes to C and tells him that if he (C) does not press payment of A at once, that he (B) will not consider himself liable on note, as A is becoming weaker financially every day. C still delays in the matter of pressing payment of A."

Please state to me B's position as to liability in the matter after all these things have occurred. *Is B still liable?* Is it necessary for B to make any enquiry *re* this note on day of maturity, he being the second man thereon, and simply on for accommodation to A.

Answer.—B is still liable. If he wishes A proceeded against, he must pay the note and take proceedings himself. C is under no obligation to take B's order in the matter.

BOOKS ON LEGAL SUBJECTS AND SUBJECTS RELATED TO BANKING

APPROVED BY THE JOURNAL QUESTIONS COMMITTEE.

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EDITORIAL NOTES

To Journal Readers.

The delay in publication of the July number of the JOURNAL has been unavoidable, owing to the lack of matter wherewith to fill its pages. Some of the writers of promised articles, made indolent by the extreme heat, have sought the sea, and, in response to urgent requests for "something for the JOURNAL," have even declined to write about the singular beauty or superior natural advantages of the cool retreat chosen for its suggestiveness to the tired writer of sweet idleness. However, the July number, although appearing in August, contains excellent reading.

Quebec.

The delight of thousands who witnessed the reproduction of stirring and romantic scenes in the early history of Quebec will be the principal, and possibly the best-prized, reward of those who laboured so faithfully and well to ensure success for the Tercentenary Celebration. The banking fraternity will join in congratulating the President of the Canadian Bank of Commerce upon the deserved honour conferred upon him for his meritorious work in connection with a splendid purpose, happily effected:—to preserve as parks for the people of Canada and their descendants the historic sites of strife and bloodshed, and to convert the scenes of conflict between rival races into resting places for the aged and play grounds for the children.

All who assisted to render the Tercentenary the huge success it proved to be, have done much towards making of Quebec a veritable Mecca for the thousands of tourists who annually visit the Dominion of Canada.

Our Mother Country

Every lover of Great and Greater Britain will read with a feeling of pleasurable patriotism the article appearing in this number of the Journal by one of the much-too-few literary bankers, Mr. A. Gordon Tait. He deals with "the problems and perplexities" with which the English speaking people are now grappling, in a thoughtful and interesting manner, and even ardent Socialists will find nothing to offend them in his reference to the mirage which their cherished doctrine paints in the brain of the workingmen.

Altogether, Mr. Tait's enquiry into the state and conditions of trade and commerce in the British Isles, and the statistical data collected in the course of his reading and investigation has been woven by him into an extremely interesting tribute to the Mother Country of the past and the present.

Mr. Tait may well claim that his observations during a period of enforced convalescence will serve to enlighten some of his readers who were beginning to dream of the commercial downfall of the country we, in our hearts, love so well.

The double Liability Clause

The plea of Professor Macnaghten for the relief that would follow the erasement from the Bank Act of the liability now fastened upon shareholders for double the amount of their monetary interest in banks is deserving of thoughtful consideration. As a subject for dispassionate controversy it is interesting to bankers and investors, even if at its first suggestion it may not commend itself to depositors.

In view of the approaching revision of the Bank Act and the absolute certainty that its present provisions will be made subjects for general discussion by Parliament and the people, the JOURNAL publishes, without comment, Professor Macnaghten's article. His proposal to restrict the liability of bank shareholders to the amount of their original investment will be warmly espoused by many holders of stock in the chartered banks of Canada. In any event, Professor Macnaghten's process of reasoning may make converts to his cleverly conceived plan of relief for timid, or shall we say, cautious, investors of money for widows and orphans, to whom the failure of a bank may mean so much.

Business by Telegram

Following the admirable and instructive article by Mr. W. F. Chipman, on "Pass-Books and Forgeries," published in the last number of the JOURNAL, we are pleased to be able to produce in the present issue another contribution from the pen of the same researchful writer. Mr. Chipman refers to his subject, "Business by Telegram," as "*an extremely important one.*" It is, and his presentation of the points of interest to those concerned in knowing exactly the legal relations established between persons when transacting business by telegraph, is so clear and instructive that every bank official in the country ought to read, mark, learn, and inwardly digest Mr. Chipman's opinions and study the several legal cases to which he refers.

Managers and senior officials of banks will find the comments upon their duty when acting upon instructions by telegram instructive and interesting, and even those not engaged in the serious business of banking will appreciate the reference, very cleverly made, to the absolute necessity for seeing that orders given to servants or others by telegram or word of mouth must not bear two meanings, or be in any sense, ambiguous.

J.T.P.K.

SOME ASPECTS OF BUSINESS BY TELEGRAM.

IN the twelfth volume of this JOURNAL, an admirable article treated at some length of the liability of Telegraph Companies to the various persons concerned in a message by wire. The subject is an extremely important one, but not more so than the kindred subject of the legal relations brought about by means of the telegraph between those persons themselves. It may then be worth while to consider two points with regard to those relations, firstly, the question from what moment the parties are bound by their telegrams in the case of contracts in general; and, secondly, with particular reference to banks, from what moment the agent is bound by the same means in the special circumstances of agency.

Probably no subject in the whole range of modern law has been more keenly debated than the former, either in itself or as part of the larger theme of contract by correspondence. It is not long since the law of England was quite unsettled with regard to it. The law of France is yet in the throes of the struggle. Our own law, complicated as it has been by the separate development of that of the Province of Quebec, is only now arriving at a state of harmony. The general result is an acceptance throughout the Dominion of the principle which has prevailed in England and the United States as distinguished from that which for the present has the larger number of adherents in France. Properly to appreciate this result we shall, therefore, glance in turn at the two main contentions, in their various aspects in each country.

The point at issue is at what moment, in an attempt to contract by correspondence, does there come about a final consent between the parties, so that both are from that time bound. In an ordinary contract, where two persons meet face to face, the offer of the one is met on the spot by the acceptance of the other. The whole affair is so simple in effect that the offeror has not needed to perceive that there were really two distinct matters involved, firstly, the other's acceptance of his offer, and, secondly, his knowledge of that acceptance; both of which acts, although in this case simultaneous, might conceivably have occupied different moments of time. If he were asked at what time he considered the contract made he might answer not "when the other accepted," but, "when I knew that he had accepted." Otherwise, he might say, how am I to know whether or not I am bound, and whether or not I must make good my offer? But if this be his answer it is virtually to declare that from the offeror's point of view the contract is not the consent of both parties to be bound, but his knowledge that the other is bound, and that in consequence, he, too, is bound. The contract, according to him, would date from the moment of this knowledge, as now for the first time the two minds are at one.

Now, suppose the two persons to be at some distance from each other, and that the offer must be made and answered by mail or by telegraph. At once we see the importance of the question. If it be not the offer and the acceptance that are to meet, but rather the mind of the offeror with that of the acceptor, when is the contract ever to be regarded as assured? For the mind of either might have changed before the other had received his message, in which case there could be no unity of minds. More than this: if knowledge of the formation of the contract be so important for the offeror it is equally so for the acceptor. If knowledge of consent be the chief point, he, too, is not bound until he know that the other knows. But he can only attain that knowledge by receiving an acknowledgement of his acceptance. On the other hand, the offeror must in his turn be sure that his acknowledgement was received. And so we might go on *ad infinitum*.

Suppose, on the other hand, that we abide by the simpler rule, that the contract is made at the precise time that the offer has been met by the acceptance. On this theory, according to some of its exponents, the offer is regarded as having been put at the disposal of the other party, who, until it is withdrawn, has only to express assent to it in some manner that will eventually acquaint the offeror, in order to create a contract. He thereby despatches his intention beyond the borders of his own control, with this difference between his act and that of the offeror — that the latter's intention has to travel to the mind of the former and there wait; while the former's intention has to go no farther than to join this offer, although, indeed, by means of an expression calculated to reach the offeror. Another way of explaining the same rule is to say that the offeror, as making the first move, must reach the mind of the other party. The acceptor also, as a contingent obligation, must utter his acceptance so as to reach the whole mind of the offeror who, since his position will be changed thereby, is entitled to a notice as regards the future; and a breach of this obligation, or carelessness in performing it, might expose the acceptor, insisting on his contract, to a plea of estoppal or to a counteraction in damages. But, as far as the contract itself is concerned, at the very moment of the utterance of the acceptance, the acceptor has met as much of the offeror's mind as was embodied in the offer, with all that was needed to enlarge it into a bargain. Hence, if the parties are acting by letter, the contract would be complete upon the mailing of the acceptance; if by telegram, upon the delivery to the telegraph company.

But if there were difficulties attached to the first theory there are others not less striking attached to this. To take, for the present, only one: you might accept my offer by mail and five minutes later revoke your acceptance by telegram. Your letter might never arrive, and all that I would know of your mind might be contained in the telegram: yet the telegram, being later despatched, would be void; and the letter that was never received would bind the contract.

However that may be, this is the rule that has been adopted in England. The steps that have led to it have not been uninterrupted, nor the reasoning always consistent; but the doctrine is now established, and in such a way as to apply as well to telegrams as to letters.

Thus, in an early case, it was said "The defendants (the offerors) must be conceived in law as making, during every instant of time their letter was travelling, the same identical offer to the plaintiffs, and then the contract is completed by the acceptance of it by the latter.

In a later case, however, the proviso was added—" unless the letter was interrupted in its progress."

Two years afterwards this provision, in its turn, was considered unsound.

Then came several cases in which the doctrine was disputed, followed again by its assertion in the strictest terms.*

In 1879 the question arose whether an acceptance, lost in transmission, was binding on the offeror, and it was held that if the letter of acceptance was posted in due time, a complete contract was made at the moment of posting. But this rule was subjected to the limitation that acceptance by post should be expressly or impliedly authorized.† This limitation was considered in another case to be the whole point of the rule, the offeror being regarded as saying: "If you agree, signify your acceptance by doing some particular act," that act impliedly being to send an answer by letter; in which case the act would at once bind the parties.‡

Both these judgments, however appear to miss the point at issue, or rather to complicate it by adding a useless link to the chain of logic. For from the offeror's point of view all the authorization in the world will not make him better acquainted with the subsequent act of his correspondent, while, from the acceptor's side of the affair, his consent is equally effective for the purpose of the contract whether the letter containing it be authorized or not. There can be no doubt whatever that in such a case the constructive implication is altogether unreal. It is not the way in which the answer is to come, but the answer itself that concerns the offeror. An answer by post, by telegram, by messenger, or in person, would be all one to the offeror, so long as he were equally certain of the authenticity of the consent. Since it is the mere knowledge of the consent that he desires, the puzzle still remains; for that is just what no legal quibble can give him, and just what the rule cuts out as not of the essence of the contract.

Another variation of the same idea is the argument that the offeror, by writing, constitutes the post office his agent to receive the acceptance, and, therefore, has constructive knowledge as soon as it is consigned to the agent.* Such a contention, however, is no more satisfactory than the former. It does not put the consent on any sounder basis, nor add a particle to the offeror's real knowledge of it. Nor, indeed, can the post office be in any way regarded as representing the person of the offeror, or as being his agent for anything but the act of transmission.†

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* *v.* Pollock on Contracts. 7th Ed., App. B.

† Household Fire Ins. Co., *v.* Grant, 1879, 4 Ex. Div. 2, 6.

‡ Brodgen *v.* Metrop. Ry., L.R., 2 H.L., 291; Cf.Anson Contracts, p 31; and Henthorn *v.* Fraser, 1892, 2 Ch. Div., 27.

As for the notion that the true reason for the contract being complete upon posting is that by the post office regulations a letter belongs to the consignee as soon as it has left the senders's control for that of the post office,‡ it seems an obvious answer that the regulations of a state department, however necessary, and however decisive for public purposes of the question of ownership, have nothing to do with the interpretation of the law of contracts.

The true reason of the English rule would seem to be the principle that "the person who has made an offer must be considered as continuously making it until he has brought it to the knowledge of the person to whom it was made that it is withdrawn." * In virtue of the principle, the offer, until withdrawn, subsists at the other party's disposal, who, if he choose to signify his acceptance of it by some sign which may be expected to reach the offeror, forms a contract then and there.† And here we see the distinction between the acceptance of the offer and the revocation of it; the letter being of no avail until it has reached the other party, the former counting from the time when it has been despatched to reach him. These principles, it may be added, are equally applicable to telegrams as well as to letters.

American law is to the same effect ‡; although there has been doubt at times as to whether the rule could be applicable to telegrams as well. The stumbling-block was the argument above-mentioned with regard to the postal regulations respecting ownership of letters. The telegraph service being only a quasipublic enterprise on this continent and not part of the post office, that argument at once lost its value. But further consideration showed that it was the argument that was at fault, and that, there being no material difference in the two modes of communication, the same rule applied to both.§

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* Addison on Contracts, p. 17.
† Dickson *v.* Reuter, 2 C.P. 69.
‡ Henthorn *v.* Fraser, 1892, 2 Ch. Div., 27.
* Henthorn *v.* Fraser, above cited.
† Brodgen *v.* Metrop. Ry., above cited.
‡ Jones on Telegraph and Telephone Co.'s, pp. 686, 691.

The law of the English provinces of the Dominion may be exemplified by an Ontario case in which it was laid down, in accordance with the English rule, that "in the construction of a contract arising out of letters and telegraphic communications, the party making the proposal must be considered as renewing his offer every moment, until the time at which the answer is to be sent, and then the contract is completed by the acceptance of the offer." *

The law of the Province of Quebec on such a point would, of course, where it went outside its own precincts, turn its attention not to the law of England, but to that of France. There, however, chaos prevails. Two main schools have divided against each other all the highest authorities in the country, the first contending that the union of offer and acceptance is sufficient if shown by an expression of acceptance; the second demanding in addition a knowledge of this expression on the part of the offeror as an essential element; and not being deterred by the recognition of the interminable tangle which would logically result. It is agreed that a mere consent retained in the acceptor's mind, with no external utterance intended for the offeror, would not suffice. But whether that utterance is of the essence of the contract or only contingent to it, is hotly disputed The terms employed are somewhat more abstruse, the logic, perhaps, more severely thorough than in the same debate in England; but the leading arguments are practically the same in both countries, and need not be repeated here. As evidence, however, of the earnestness of the discussion, and as typical of the yet unsettled opinion in France on the subject, it may be mentioned that one of the greatest of French authorities, M. Beaudry-Lacantinerie, has been quite unable to make up his mind on the point. In his *Précis de Droit Civil,* published over twenty years ago, he upheld the contention that there must be knowledge of consent as well as consent itself. Several years later, in his work on Obligations, he maintained an elaborate refutation of his former opinions to which, however, he did not see fit to refer. Not content with this, he subsequently published a book on Sale, in which he returned to his earlier view. Yet successive editions of each work repeat as they stand the two irreconcilable theories.

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§ Jones, p. 686, and Gray on Contract by Telegraph p. 204.

* Thorne *v.* Barwick, 16 C.P., 369.

It was the first of these opinions that was followed by the majority of the Court of King's Bench, at Montreal, in 1895*; Mr. Justice Wurtele saying that until the acceptance of an offer is received, "a simultaneous and reciprocal concourse of the will of both parties does not exist, and the proposer consequently still retains the right to retract his offer. After the deposit, and before the receipt of the letter of acceptance, the acceptor can, on his part, also retract his acceptance by means of a more rapid means of communication, for example, by telegraph or by telephone."

Bossé and Hall, JJ., however, dissented, the former giving a strong judgment in favour of the English view.

The dispute was not ended by this case. In 1901 a similar point arose, and was carried up to the Supreme Court of Canada, and the earlier decision was overruled.† Taschereau, C.J., declared the law in the Province of Quebec to be on the same footing as in England; and we may now take it as the law all over Canada that, in any contract by correspondence, whether letter or telegram be the mode of transmission, while the offer is a nullity until it reach the other party, and any revocation of acceptance be made, the acceptor has bound both himself and the offeror when he has despatched the expression of his will.

Before leaving this point, it may be of interest to note the state of the law hereon in some of the other commercial countries of the world, especially in these days when contracts go so far afield.

Spain, in her Civil Code, demands a receipt of the acceptance. In her commercial code she considers the contract complete upon the acceptance alone. It would seem that the latter rule would have the greater activity.

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* Underwood *v.* Maguire, 6 K.B., 237.

† Magann *v.* Auger, 31 S.C.R., 186.

Portugal, Mexico, and Chili have also adopted the view of acceptance pure and simple.

Germany has taken the opposite course, saving, however, any custom, or the offeror's declaration, to the contrary.

Italy follows suit, but with so many exceptions as to leave very little scope for the rule.

Japan has accepted the same principle as ourselves.

It remains to be added that, of course, if the offeror stipulate that the contract shall not be complete until the acceptance reach his knowledge, the general principle would at once give way to this particular stipulation.

So much for the main rules where the messages are reciprocal. Let us now consider the case where one message only is at issue. When, in this case, and how far, is the person to whom the message is sent bound by it? The question arises in the circumstances of mandate, and is of particular interest with regard to banking operations, in which the part played by the telegram is of ever-increasing importance. The subject is first of all complicated by the fact that, while the person sending the message takes all the initiative, there is, nevertheless, an obligation upon the other, who is legally known as the mandatory, to receive and to facilitate the reception of the mandate. It is part of the expectation of his business that particular mandates should arrive, directing or modifying his general duties. He therefore is not in the free position of a person to whom an offer comes as a surprise, and who is under no obligation to meet it half-way. His general consent to be bound by such orders as he may get has been already expressed, and the question as to when he is bound is thus upon quite another footing from that of the person receiving an offer, since by his negligence he might alter the time at which it was received. That is to say, taking for granted that the mandator was in the same position as the offeror to this extent, that his message would have to reach the agent before it could be held to exist, the question is, would the agent be bound from the time when the message could have been at his disposal had he not been negligent; or from the time that it was, in fact, at his disposal, although he might not yet have examined it; or only from the time when he was actually acquainted with the contents?

For instance, if the mandate came by mail, or, if in England, even by telegram, we can see the possible revival of the argument that since by the postal regulation the message as soon as sent would belong to its consignee, he might be considered bound from that time, however much the result might disagree with the facts.

Or we might have the contention that, by reason of the general understanding between mandator and mandatory, the telegraph company might be regarded as the agent of the latter to receive messages, contrary to the general rule that it is the agent of the sender.

Again, the question as to the time of being bound would be largely influenced by the inherent binding quality of the message. The point would arise as to authenticity. A telegram, for instance, would differ from a letter in the fact that its authenticity would in great part have to be taken for granted from considerations of the plausibility of its contents. We would also have to distinguish between a telegram of mandate and one of countermand, for it would at once be asked whether a message of certain authenticity could be countermanded by one of less certainty in that respect; or whether it would serve simply to put the agent upon enquiry.

All these questions, as far as they interest bankers, were raised in the recent English case of Curtice *v.* London County and Midland Bank, Ltd.,* the facts of which were concisely as follows:—

On October 31st, 1906, the plaintiff drew a cheque for £63 on his bankers, the defendants. On the same day, after banking hours, he telegraphed to countermand payment of the cheque. The telegram was delivered on the evening of the same day by the post office, and, it being after office hours, was placed in the letter box of the bank. By an oversight on the part of the defendant's servants this telegram was not brought to the notice of their manager until November 2nd. On November 1st the cheque was presented and paid. The plaintiff sued the bank for moneys had and received. The custom of countermand by telegram having been proved, the County Court judge held that the defendants must be considered to have received the telegram on November 1st, and that there was a good countermand on that date.

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* L.R., 1908, 1 K.B. 293.

The case then going to the Divisional Court, composed of Judges Darling and A. T. Lawrence, it was agreed by them that there might be countermand by telegram, but they differed as to whether there was countermand in the circumstances. Lawrence, J., was of opinion that there was no countermand until the contents of the plaintiff's telegram came to the knowledge of the manager of the defendant's branch, and that the defendants, having paid the cheque according to its tenor, and without, in fact, having notice of any countermand, had done nothing improper, and that an action for money had and received would not lie. Darling, J., however, was of opinion, with the judge of the first court, that the countermand must be held to have been communicated to the manager on the morning of November 1st, when the letters from the letter-box were opened, and that the defendant could not be heard to say that the countermand was not effective since it was due to the default of its own servants that the contents of the telegram had not come to the notice of the manager. The case was then appealed to the King's Bench; and from the judgments rendered in that court we may look at the following paragraphs:

Cozens-Hardy, Master of the Rolls, said: "Countermand is really a matter of fact. It means much more than a change of purpose on the part of the customer. It means, in addition, the notification of that change of purpose to the bank. There is no such thing as a constructive countermand in a commercial transaction of this kind. In my opinion, on the admitted facts of this case, the cheque was not countermanded, although it may well be that it was due to the negligence of the bank that it did not receive notice of the customer's desire to stop the cheque. For such negligence the bank might be liable, but the measure of damage would be by no means the same as in an action for moneys had and received...... But as we have had an argument addressed to us as to the effect upon the duty of a bank of the mere receipt of a telegram, I wish to add a few words on that. A telegram may, reasonably and in the ordinary course of business, be acted upon by the bank, at least to the extent of postponing the honouring of the cheque until further enquiry can be made. But I am not satisfied that the bank is bound as a matter of law to accept an unauthenticated telegram as sufficient authority for the serious step of refusing to pay a cheque."

Lord Justice Fletcher Moulton added: "I am of the same opinion, and I fully agree with everything that the Master of the Rolls has said...... A banker (although so far as his financial relations to his customer are concerned, he stands in the position of debtor and creditor) is for such a purpose as this only a particular type of agent; he is in the possession of money of the customer, and his duty is to obey the directions of the customer as to paying that money out. If an order is given to him he has the ordinary rights of any agent with regard to the mode in which that order shall be given to him. I use the word "mode" in the widest sense. It has long been held that an order must be unambiguous. If a master chooses to give an order to his servant that bears two meanings, he cannot find fault with his servant for having taken the meaning which it was not in fact intended to bear; and that applies to a banker when receiving orders as much as to agents generally.

Now, that duty which applies to the duty of conveying the mandate in a form in which the meaning is unambiguous applies, *mutatis mutandis,* to the question of authenticity. If the mandate is sent in a form in which a servant, acting reasonably, has no security that the mandate comes from his employer, the employer cannot grumble that he did not act upon it. Authenticity and meaning appear to me, in the general law of agency, to stand on the same footing, subject, of course, to the broad difference of circumstances which are due to the difference of nature of the two. In my opinion the telegram, which is only an unauthenticated copy of a document, cannot be said to be necessarily, and as a matter of law, a mandate communicated in such a way that its provenance is unambiguous. On the other hand, I think that any man of business, or a jury, consulted upon the matter, would say that in a vast number of cases, the internal evidence of the telegram itself, or the circumstances under which it was sent, or the relations of business between the master and the servant, would make it the duty of the servant to act on particular telegrams; and, therefore, I do not want any word that I utter to imply that any agent, whether he be a banker or otherwise, may ignore communications by telegram. At the same time I desire to say most emphatically, that I cannot hold it as part of the doctrine of agency that a principal who has sent this agent a telegram which does not, when looked at reasonably, indicate its own authenticity, has a right to say that the agent who has on that account declined to act upon it has done so at his peril. It must be a question in each case as to whether the agent has behaved reasonably in acting or not acting upon that telegram. So much for the first point.

"With regard to the second point, as to the doctrine that there may be in law constructive notice of the meaning of a countermand which has not reached the mind of the servant, I agree entirely with what the Master of the Rolls has said. If it is by the negligence of the servant that the notice has not reached him, he is responsible for that negligence and for the damages that naturally follow therefrom; but that he should be, as a matter of law, disentitled to prove the fact that he did not know of something seems to me to be a doctrine which, in mercantile matters, is one which the court will give no countenance to."

And Lord Justice Farwell said: "No one supposes that a banker or any other business man can safely disregard a telegram by neglecting to clear out his letter-box, which may contain letters and telegrams. If he does so he does so at his peril, inasmuch as he may suffer loss himself or he may expose himself to an action for negligence. But the plaintiff's case is not based on negligence; his case is that the mere delivery of a telegram by the post office authorities to a bank, although that telegram has by an oversight never been opened, and has, therefore, never come to the attention of the banker, operates as a countermand of payment within Sec. 75, Sub-sec. 1 of the Bills of Exchange Act (our Sec. 74, Sub-sec. 1). In my opinion that cannot be so, and I entirely agree with the Master of the Rolls as to the impossibility of applying the doctrine of constructive notice to business transactions like the present. It is a question of fact whether the payment was in fact countermanded or not...... On the evidence here it is clear that the banker is simply put upon enquiry by the receipt of a telegram, and his duty is not to pay at once, but to make enquiries; and, if the mere receipt of a letter or telegram were sufficient countermand, the position of a banker in a large business would be most difficult. Supposing a mid-day post comes in with so many letters that it takes a quarter of an hour (not an unreasonable time) to open them — if during bank hours, and just as the post comes in or within five minutes afterwards, a number of cheques are presented, is it to be said that the banker must thereupon refuse to cash any of these cheques until he has opened all his letters? On the general question of stopping by telegraph I am disposed to think that it would depend a great deal on the custom of the bankers, and the agreement, if any, between the customers and their bankers, that business should be conducted by telegram, and this would depend on the evidence in each case."

Recent as it is, this judgment has already influenced Canadian banking law. On the strength of it, among other authorities, it was laid down in Ontario last March * that the revocation or cancellation of the authority of a bank to part with its money must be evidenced in the same way as the authority itself; and that a telegram is not sufficient to countermand the payment of a cheque.

We may say then for the present, as far as bankers are concerned with this subject, that they are in the main in the position of the acceptor in the case of a contract by correspondence; that although they are responsible for any negligence on their part that prevented them from receiving the message, they are not bound by it until actually acquainted with its contents; and that, if it be a message by telegraph, they are bound, upon an order, only if the telegram satisfactorily convince them of its authenticity, while, upon a countermand, they are not bound at all if the mandate to be revoked was, as a cheque, in writing; at the most they are simply put upon their guard.

W. F. CHIPMAN.

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* Knowles *v.* Bank of Montreal, 44 C.J., 31, 6.

THE MOTHER COUNTRY AND SOME OF HER PROBLEMS.

> "A country is in a good and sound and healthy state when it
> " exhibits the spirit of progress in all its institutions and in all its
> " operations, and when with that spirit of progress it combines the
> " spirit of affectionate retrospect upon the times and the generations
> " that have gone before, and the determination to husband and to
> " turn at every point to the best account all that these previous
> " generations have accumulated of what is good and worthy for the
> " benefit of us their children."—(W. E. GLADSTONE.)

I.

Not a little misgiving appears to exist in many minds as to the present "means and standing" (to make use of a banking term) of the Mother Country; not a little doubt as to whether Great Britain still is great in character, wealth, and resources as "Great" in name; whether she still is Mistress of the Seas*; whether the tide of pride and prowess is not gradually, but surely, receding from her shores,—doubt, in short, as to her present actual position; misgiving as to her future.

I will try to state clearly, and in as few words as possible, what I believe to be the present condition of affairs (principally trade affairs) in Great Britain, and, if I should succeed in sub-

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* (a) *Board of Trade Return of Trade and Navigation, 31st Dec., 1907*:—

SHIPPING (Foreign Trade).

	Tonnage Entered		Tonnage Cleared	
	1905	1907	1905	1907
British	27,994,875	29,265,726	32,762,459	36,980,099
Foreign...	12,001,851	12,136,784	16,860,664	20,602,945

(b) "*Lloyd's Register Book*," *1907-8, in Whitaker's Almanack, 1908*:—

MERCANTILE SHIPPING OWNED

United Kingdom and Colonies	18,320,668	tons.
Other Countries..	21,118,249	"
World's Total	39,438,917	"

(c) "*The Shipbuilder*," Vol. 2, No. 7 (Winter Number, 1908):—

MERCHANT VESSELS LAUNCHED, 1907.

British and Colonial..	1,730,000	gross tons
Other Countries	1,234,000	" "
World's Total	2,964,000	" "

stituting in the minds of a few of the many readers of this JOURNAL a sense of a knowledge of facts in place of a feeling, hitherto, of uncertainty and apprehension, the observations of some ten weeks of enforced convalescence spent in that country during the past winter (1907-8) will not have been wholly lost.

The facts and statistics contained herein have been gathered for the most part at first-hand in order that they might be the more authoritative. In every case where information has been obtained other than directly, a reference is given indicating its source.

Let it be understood, in the first place, that there are two Englands. There is the England of the antiquarian and the overseas tourist to which one may turn aside, if one will, almost anywhere throughout the length and breadth of the country. This is the England of the *past;* the England of the little fellow in Kipling's fairy history who introduces himself as "Puck of Pook's Hill"; the England of Roman occupation; of the Saxon and Dane, the Pict and Norseman; of feudal times; of the Plantagenets; of the White Rose and Red Rose; of the Tudors and Stuarts and the House of Hanover; the England to which many (who are surely mistaken?) point as the millstone about the neck of the British people, ever holding them down to century-old associations, to ancient usages and to the worship of precedent.

Then there is another and a widely different England. This is the England of *to-day,* peopled with men and women sane in mind and vigorous in body; keenly alive to the manifold responsibilities of the hour; awake to the solemn possibilities of the future. This living England of the present is, so far as concerns practical work-a-day life, divided from the England of the past as effectually as though by a concrete barrier.

"The Mother Country and some of her Problems." What may "some of her problems" be, or, rather, what were some of them during the winter of 1907-8?

The problems of the Mother Country, great and small, are countless; many of them so grave and so complex as to not only affect national prestige, but to menace national existence itself. We, in Canada, may well be thankful that the onus of solving them at present rests in stronger and more experienced hands than our own.

Some of these problems may briefly be stated thus:—

I.—(*a*) *The State of Trade and the Improvement of the Conditions under which it is carried on.*

(*b*) *A Remodelling of the Fiscal System,* or, in the language of the Tariff reformer, a "broadening of the basis of taxation." Much controversy raged, and is still raging, around these sister-subjects, and I shall later refer to them fully.

(*c*) *The Growth of Socialism.* The rapidly spreading blight of Socialism is so nearly related to the other two matters just referred to, that I bracket the three together.

II.—(*a*) *Unrest in India* engendered by Western education assiduously imparted, and in good faith, by the Government of India. Mutterings of sedition, followed by acts of outrage Nihilistic in character, evidence the widespread disaffection among her three hundred millions of heterogeneous races and peoples, whose "vague aspirations and ambitions"* are fanned by irresponsible "Keir Hardieism" at home.

(*b*) *An Egypt "ripe for self-rule."* I quote from the manifesto of the Egyptian Nationalist party recently addressed to the British Government.

If ever an ungrateful nation deserved to be taken at its word, we have such an instance here. As in India, so in Egypt, Great Britain plays the thankless role of constable and arbitrator. She *cannot* withdraw from either country now, even if she would, for her departure would be the signal for instant anarchy. In the event of such desertion, the blood would be on England's head.

(*c*) *Asiatic Exclusion,* a novel policy put into force on the Rand in South Africa, in the Province of British Columbia and in the American Pacific Coast States.

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* Lord Lansdowne's farewell speech at Calcutta, January, 1894.

This policy has begotten new problems for the Mother Country, in which she must reconcile the several interests of two Colonies and of a friendly Power on the one hand, with the several interests of a vast native Dependency and of two other equally friendly Powers (one an ally) on the other.

(*d*) *Lawlessness in Ireland* characterized chiefly by cattle driving (juries declining to convict offenders), by boycotting and the occasional shooting of neighbours. Any measure that would restore contentment and prosperity to the "distressful country" would be welcomed.

III.—(*a*) *Maintenance of Naval Supremacy* in the face of competitive foreign expansion. This refers more especially to Germany's declared ambitions on the high seas.

The British public is somewhat confused by the innumerable changes which have taken place in everything naval during recent years. The constant reforms appear to be equally disquieting to naval men, as officers, for the first time in the history of the Royal Navy, have been seeking civil employment.

(*b*) *Re-organization of her Home Defensive Forces.* The work of re-organization was commenced on 1st April last by the operation of the Territorial Army Bill, which came into force on that date. This Bill entailed the disbandment of numerous battalions of Militia, also the extinguishing of the identity of the Volunteer forces. At best, it is but a vast experimental measure which it is yet too early to criticize justly.

Add to the above matters, briefly touched upon, numerous outstanding international and colonial differences of a minor degree; the irrepressible Woman Suffragette; the Deceased Wife's Sister bewilderment; a much-debated Licensing Bill by which it is proposed to revoke within fourteen years no less than 30,000 liquor licenses, without (it is alleged) adequate compensation, and we have a tolerable idea of some of the many problems and perplexities which confronted the people of Great Britain about the turn of the year 1907-8. The four months that have since elapsed have seen but little change in the general situation at home or abroad. Of these problems, the three bracketed together under Section I are those to which I propose to refer fully.

II.

(*a*) *The State of Trade and the Improvement of the Conditions under which it is carried on.*

What was the state of trade in Great Britain throughout the year 1907? I quote from the "Annual Trade Review," a supplement to the January, 1908, issue of the London Chamber of Commerce Journal:—

> "In presenting our usual detailed review of the commerce and "industry of the United Kingdom, it may, at the outset, be said that "1907 was a disappointing year. It opened brightly, and manufac-"turers were well occupied, but complaint has been universal that "the high prices of coal and raw materials generally diminished "profits, in some cases to the vanishing point...... As the year "progressed, signs of weakness became discernible, and in the second "half a retrograde movement appears to have set in, which was "accentuated, even if not largely induced, by the financial strin-"gency mainly caused by the crisis in the United States...... We "have just passed through a period of exceptional activity, and it "looks as if trade has received a check, the duration of which it "is difficult to forecast. The effect of the American crisis, with "concomitant financial stringency, is far-reaching and has restricted "trade, not only in this country, but throughout Europe."

Take the general reports on certain important industries:—

> *Iron and Steel.*—"It (1907) has been a remarkable year and "in no way more remarkable than the vivid contrast between "the first half and the second half...... Should...... this feeling "of pessimism give way to one of greater confidence, induced, as it "might easily be, by a return ere long to easier monetary condi-"tions...... the year on which we are entering might well turn out "to be quite a prosperous one. Should the prevailing pessimism "prove well founded, ... bad times will be even more complicated "and disastrous by troubles among workmen who, willing enough to "take their share of the good times, are...... unwilling to share "the burdens when, unfortunately, trade takes a downward turn."

> *Building Trade.*—"The condition of the building trade during "1907 has been far from satisfactory...... Viewed impartially, a "temporary slackness is oft-times a blessing in disguise. In many "cases it has the effect of wiping out the speculator, the man of "straw and the jerry-builder (all too often synonymous terms), "leaving the trade better for being thus purged of these undesir-

"ables. Moreover, it gives the honest tradesman an opportunity "of setting his house in order and more closely studying how, by "legitimate methods, his business may be improved and expanded."

Cotton Trade.—"...... While spinning in practically all sections "has been prosperous, weavers have not done so well...... The "prospects at the present time are rather uncertain. Producers of "yarn all round have fairly lengthy engagements, but most weavers "are in want of fresh orders."

Shipping Trade.—"'Freights fair, coal dear,' again summarizes "the position of affairs maritime in 1907, just as in 1906."

Now take a few special reports from the larger trade centres:—

Belfast.—(Linen)—"...... The staple industry which employs so "many hands has, until quite recently, continued as active "and profitable, especially in the spinning section, as at any "time within the past generation...... But for the financial "crash in America, the year's returns would have been very "high......"

(Shipbuilding)—"The two large shipbuilding firms at "this port, Messrs. Harland & Wolff, Ltd., and Messrs. "Workman, Clark & Co., have again been fully occupied "throughout the year."

Birmingham.—"The year in Birmingham ended much less cheerfully "than it began, confidence having given way to uncertainty, "and while few trades are really in a depressed condition, "several are on the down grade, and pessimism is general."

Glasgow.—(Iron and Steel)—"There has been a large volume of "business in raw and manufactured iron and steel put "through both on home and export accounts...... A reactionary tide, however, set in about mid-summer, has become "more pronounced since, and at the moment unfortunately "is still running."

(Shipbuilding)—After giving statistics of launches for the year:—"A new record is thus constituted in the history "of the industry, but, unfortunately, many of the yards are "left empty." *

Leeds.—(Woollen and Worsted Trades)—"Trade has been good "throughout the year...... and mills have been well employed. There are two causes at work which make the "outlook less cheering; the first being the uncertainty "whether the present high price of wool will be maintained;

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* The London "Economist" of the 4th April, 1908, reports regarding shipbuilding on the Clyde as follows:—"There are quite "fifty firms in that district—several capable of turning out on an "average from 6,000 to 8,000 tons a month, and employing, when in "full swing, from 15,000 to 20,000 men each,—but from the beginning "of January to the end of March all of them together put into the "water only 60,000 tons of all sorts and sizes of craft. This is the "smallest amount registered since 1897......" Depression in freights has made the carrying trade unprofitable.

"and the second, the stringency of the money market.......
"The immediate outlook is not without anxiety."

Liverpool.—"Liverpool has passed through an interesting and a "stirring time during the twelve months just brought to a "close. Shipping affairs, of course, loom to the exclusion "of everything else......"

(The report on the Port of Liverpool is optimistic, despite the transfer of several large liners to Southampton.)

The following trades report business satisfactory:—

London.—Coal; furniture and cabinet-ware; leather and hides; wool and sheepskins; paper and stationery.

The following report depression:—

Electrical trades; oils and colours; textiles; wines and spirits.

(Strange to say, no mention is made as to the trade of the Port of London, which is to pass under Government control on the 1st January next.)

Newcastle-upon-Tyne.—(Shipping)—"The year has been one of full "employment for ships, and there has been no laying up of "steamers. The volume of trade has been enormous, and "shipments of coal have beaten the record."

(Shipbuilding)—"Throughout the whole of 1907 the "shipbuilding industry remained in a depressed condition, "and the year closed with a worse outlook for builders than "for many years."

Nottingham.—(Lace)—"In the earlier months of 1907 there was an "extensive business done in nearly all departments. Manu-"facturers found it impossible to overtake the arrears of "orders on hand before they were loaded with new orders "from all parts......" (Later)—"The actual condition of "the trade is less buoyant than at the corresponding period "of the previous year."

(Hosiery)—"Expansion has been checked by strong for-"eign competition."

Sheffield.—(Steel)—"Speaking generally, 1907 has been a year of "unparalleled activity. The remarkable expansion of trade "in 1906 was continued until record totals were reached in "the output of steel manufactures of all descriptions."

(Prospects for 1908)—"The crest of the wave has un-"doubtedly been passed. Trade is almost at a standstill at "the time of writing, nobody ordering anything...... No-"body is prepared to produce anything beyond what is "necessary for the moment, or to bind or commit himself "in any way."

Southampton.—(Shipping Trade)—"The improvement noted last year "has been fully maintained."

The following report from Middlesbro', an important centre of the iron and steel trade, I have reserved to conclude these extracts because of its practical philosophy:—

> "The period of prosperity is over for the present, and people "are somewhat in the dumps about their probable experiences over "the coming twelve months. A quiet time is looked for the world "over, but as producers have done extremely well during the last "two years, they are well equipped to meet any fortune that may "attend their operations in 1908, be it adverse or otherwise."

I regret to have quoted at so great a length from these reports, but, while making allowance for the varying temperaments of their respective writers, I feel that they reflect fairly and clearly the course of trade in the United Kingdom during the past year. "All this depression," one may exclaim, "with "Board of Trade Returns showing an *increase* in total trade of "ninety-five and a half millions sterling,* an increase in rail-"road traffic receipts and a leap upwards of nineteen millions in "London Bank Clearings alone to the stupendous total for the "year of £12,730,393,000 sterling!"† Regrettable to state, the bare official Returns, however accurately compiled, fail to reflect faithfully the true condition either of trade in general or of any particular industry. Merchants and manufacturers point out that these statistics, taken by themselves (also the customary conclusions arrived at from comparative figures of "increases" and "decreases") are frequently quite misleading; that in no case do they tell the whole story, and for two reasons. The first, because the Returns in question do not (neither can they) indicate the percentage of profit on turnover; for we know very well that, granted a large volume of trade, it does not necessarily follow that big profits are being made. In the second place, statistics do not reveal the trying (and every year more trying) conditions under which trade and manufacture are being carried on. There is little inkling, for instance, in these Returns of the severity of that foreign competition against which the British manufacturer, harassed by continual trade legislation at home, is pluckily keeping up an unequal fight.

To revert for a moment to our extracts in review of the trade of the United Kingdom in 1907. Looking through the full reports one comes to the following conclusions:—

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* Board of Trade Return of Trade and Navigation of the United Kingdom, December 31st, 1907.

† Annual Report of the London Bankers' Clearing House, 1st January, 1908: Total Clearings through London Clearing House—1897, £7,491,281,000; 1901, £9,561,169,000; 1906, £12,711,334,000; 1907, £12,730,393,000.

(1) That while the year opened well, the latter half was characterized by general and marked depression.

(2) That this depression was largely induced, and decidedly aggravated, by the widespread financial stringency having its origin in the United States.

(3) That the abnormally high price of fuel and the increased cost of raw materials seriously affected profits.*

(4) That foreign competition was keenly felt by many industries. (Certain industries appear to be more susceptible to foreign competition than others.)

(5) That unbroken prosperity in any trade throughout the year was exceptional.

(6) That while labor disputes had not been contributory to trade depression, the fear is well founded that, conversely; the depression in trade is likely to be accentuated by labor troubles.

With the above conclusions, I pass from this rapid survey of the state of trade in the United Kingdom during 1907 to discuss the conditions under which that trade is carried on.

What do business men themselves say, particularly manufacturers, of the conditions under which trade is carried on?

They say that they are harassed by continual domestic legislation; handicapped by incessant labour disputes, and that they must either hold their own against unfettered foreign competition in markets both at home and abroad, or go to the wall.

Take the first complaint. How is the manufacturer in Great Britain harassed by domestic legislation? By way of reply one is referred to the Factory and Workshop Act and to the recent Workmen's Compensation Act.† The former Act (which consolidates, with amendments, all existing Factory and Workshop Acts since 1878, some isolated sections excepted) imposes stringent regulations with respect to the construction and internal management of workshops with a view to the health and safety of those employed. While no one will deny that such legislation is highly necessary, there are sections in this Act to which manufacturers take exception as being of too exacting a character. One such section — rather a lengthy one — I quote from the Act:—

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* Glasgow reported the bulk of work executed during the year to have been previously contracted for with coal at from 70 to 100 per cent. lower than prices ultimately paid for it.

† Factory and Workshop Act, 1901 (1 Edw. VII, Ch. 22); Workmen's Compensation Act, 1906 (6 Edw. VII., Ch. 58).

> Section 1 (3).—"For the purpose of securing the observance of the "requirements in this section as to cleanliness in factories, "all the inside walls of the rooms of a factory, and all the "ceilings or tops of those rooms (whether those walls, ceil-"ings, or tops are plastered or not), and all the passages "and staircases of a factory, if they have not been painted "with oil or varnished once at least within seven years, "shall (subject to any special exceptions made in pursuance "of this section) be limewashed once at least within every "fourteen months, to date from the time when they were "last limewashed; and if they have not been so painted or "varnished shall be washed with hot water and soap once "at least within every fourteen months, to date from the "time when they were last washed."

It is contended that in large factories this cleaning every fourteen months is a heavy and unnecessary expense; that limewashing every three or four years (or even longer period) would, for most buildings, be sufficient. In justice to the Act, however, it should be stated that the sub-section following that quoted above empowers the Secretary of State to make special exception in favour of "any class of factories, or parts thereof," in which observance of the provisions of the section is not required to ensure cleanliness. One concludes that such exception is not as readily obtained as some manufacturers would wish.

(This Act goes thoroughly into such matters as sanitation and ventilation, fire escapes, fencing of machinery, boiler inspection, child labor, time and overtime, etc. Objections notwithstanding, these important matters are better regulated in England than in Germany—so I am told. In the latter industrial country there are no laws, I am informed, governing even air-space in factories; also, they tell me, it is extremely dangerous to pass down the aisles of a German factory with its crowded, and all unprotected, machinery in motion.)

Again, the Workmen's Compensation Act is a thorn in the flesh to the long-suffering employer. It is still somewhat early to pass judgment as the Act came into force only on the 1st July, 1907. All agree, however, that its provisions, which are very far-reaching,* entail considerable expense. Insurance companies covering accident risks† and industrial diseases‡ have increased their premiums, and are said to be maintaining them by the formation of a species of Trust. As I have just criticized Germany for the absence of adequate legislation regulating factories and workshops, I should now, in fairness, mention that Workmen's Insurance is handled in that country better than in Great Britain. Instead of the whole burden of liability falling on the employer, in Germany the employer pays one-third of the premium only, the employee one-third, and the State the balance of one-third.

What of labour troubles?

Strikes and lockouts are the unhappy experience of all countries. In Great Britain the employer finds the maintenance of satisfactory relations with his workpeople a constant source of anxiety and uncertainty. Trade unionism in that country has undoubtedly accomplished much for the material welfare of the working classes since the days of John Burns** and the famous London dock strike (1889), but it must be admitted that the Executive committees of these respective Trades Unions often overstep the bounds of good sense and even the wishes of the members of those Unions whom they are elected to represent. Strikes are frequently ordered on what seem to be inadequate grounds. May I relate a personal incident? One Saturday early in January last I stood under the immense steel, glass-roofed construction-shed from which, fifteen months before, the mammoth 33,000 ton liner, "Mauretania," had glided off the ways into the Tyne. Passing along a portion of the Swan,

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* The term "workman" in the Act has been interpreted to cover all domestic servants, indoor and outdoor; office clerks, shop assistants, nurses, schoolmasters, in fact, any one *regularly* employed in whatever capacity and in receipt of a salary of less than £250 a year. Exceptions are policemen, outworkers (as dressmakers, laundresses, etc., working at home) and members of an employer's own family living in his house.

† Workmen's Compensation Act, 1906 (6 Edw. VII, Ch. 58)—Section 1 *et seq.*

‡ *Idem.*, Section 8.

** Now the Rt. Hon. John Burns, P.C., M.P., President of the Local Government Board.

Hunter & Wigham-Richardson Co.'s yards with their one mile of river frontage, we ascended in an elevator up the side of a large oil-tank steamer. "We are going to launch her on Thursday," said the Superintendent, a fine type of an Englishman. Employers propose, however, and Trade Union Executives dispose, for, by the Tuesday following (two days before the launch), shipwrights, rivetters, fitters, and joiners had been ordered out on strike! Tyneside had followed the Clyde. Cause, a five per cent. reduction in wages—about one shilling and sixpence, or 36c, per man per week.* And the brunt of these disputes falls upon the casual, unskilled laborer, without organization and without funds.

Far more serious, however, to the British manufacturer than either aggravating domestic legislation or local labor disputes is the helpless and almost hopeless position in which he finds himself with regard to foreign competition. Industry after industry has been, and is being, literally killed by it, root and branch. Something radical must be done if British industries are to be saved, and done promptly.

III.

(*b*) *A Re-modelling of the Fiscal System.*

Why a "re-modelling of the fiscal system"? For two reasons. Firstly, because taxation under the present fiscal system has reached breaking-point. Secondly, because Great Britain's industries are so seriously menaced by the free and untrammelled competition of the products ("dumped" products frequently) of foreign countries.

The British taxpayer deservedly has the name of being the most long-suffering individual on the globe. But national expenditure increases so steadily year by year — Navy, Army, Civil Service, reduction of National Debt, and as likely as not military operations here or there thrown in—that new sources of revenue are imperative. "Let the foreigner pay," is the growing demand, "and preserve our own agriculture, commerce, and industries from extinction!" But this demand involves the abandonment of the principles of Free Trade, and such a reform will not be brought about without one of the greatest struggles ever witnessed in British politics. The opinion, however, is rapidly gaining ground among all classes in Great Britain that, in absolute self-protection, Free Trade must go overboard.*

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* At a meeting of shipbuilders held at Carlisle, on 25th April last, it was decided to shut down *every yard in the United Kingdom,* because shipwrights, joiners, etc., on the North East coast declined to accept a reduced scale of wages.

In Richard Cobden's days Free Trade, with an England towering over every other country in her industrial and commercial superiority, appeared rational enough. But times and circumstances (certainly the circumstances under which Cobden preached his crusade) have entirely changed. "In 1846 "Liberalism was in the air, and Sir Robert Peel, in introducing "his resolution for the repeal of the Corn Laws, called attention "to many signs which seemed to show that such different "countries as the United States, Naples, Norway, Sweden, "Austria, and Hanover, might be expected to take this (Free "Trade) course." † Cobden, as is well known, declared that five years would suffice to bring about the conversion of every other European nation to the doctrine of Free Trade. How mistaken was his forecast, commercial history of the past sixty years has proved. To quote further:—"We cannot retain the "respect of any other people if we are too careless, or too "arrogant, as a nation, to attend to our own business interests."

Let us ask once more, "What do business men themselves say, particularly manufacturers"?—for, in this matter, also, I have been to the pains of securing evidence at first-hand.

One, a manufacturer of leather goods in the Midlands, complained of having within the last few years entirely lost his export trade with both Germany and the United States—shut out by the respective tariffs of those countries. Another, the representative of a chemical manufacturing company in England, said that it had paid his company to erect branch works in the United States, even while compelled to employ higher-priced American labor. I learned, also, from the manufacturer first mentioned, of a certain German firm in the hosiery trade (cheap lines) 80 per cent. of whose business is done with Great Britain —*at cut rates!* This, I was informed, was but one example of thousands of similar cases. What does the much abused German say when upbraided for shutting out British goods from Germany and for his "dumping" practices? In effect, this is what a German manufacturer said to one of my English informants *two years before* Mr. Chamberlain set out on his famous Tariff Reform campaign:—

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* The results of the Parliamentary bye-elections at Peckham, North Devon, N. W. Division of Manchester and Wolverhampton during March, April and May last are all considered more or less to discredit Free Trade in favour of Tariff Reform.

† "Richard Cobden." An address by W. Cunningham, D.D., Fellow of Trinity College, Cambridge, before the Compatriots' Club, Cambridge, 3rd June, 1904 (page 15).

> "We think you English are a very generous nation; in fact "more than that, we think you are —— (something impolite). Of "course, we do not want any change, but, if you should put on a "tariff, we will manufacture in England. England is our best "customer."

But England has not yet made up her mind to "put on a tariff," and so the foreign manufacturer gaily goes on "dumping" into the country every species of manufactured goods at less than prices current in the country of origin, and often at prices less than cost of production in order to first kill the British manufacturer and then to monopolize the British home market. From Germany come cheap and indifferent imitations of sterling Sheffield cutlery and of the best specimens of porcelain from the Staffordshire potteries; immense quantities also of jewellery;* of iron and steel and hardware; woodenware; paper and manufactures of paper; musical instruments; glassware and crockery, and a veritable host of other classes of manufactured articles. But the German is not the only adept at "dumping." The American dumps steel, raw and manufactured; tin plates; hardware; boots and shoes; glassware; hops from California; rifles and revolvers, &c., &c. The Belgian dumps his cement, plate glass and glassware; the Austrian, his chinaware; the Swede and Norwegian, their granite and glass; and so on. The number of different articles and of countries of origin might readily be multiplied many times.

To demonstrate the business basis, if one may call it so, upon which this "dumping" is carried on, I extract the following table from a booklet just quoted from, *i.e.,* "The Speakers' Handbook, 1907," published by the Tariff Reform League of London, England. It is a part of the evidence given before the Tariff Commission by a ship-plate manufacturer:—

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* The Speakers' Handbook, 1907. Tariff Reform League, London.

WORKING HALF TIME.

Weekly out-turn, 500 tons, sold at £7 per ton..............	£3,500
Less cost of production, at £6 12s. per ton................	3,300
Profit......	£200

WORKING FULL TIME.

500 tons sold at £7 per ton................................	£3,500
500 tons "dumped" at £4 10s. per ton......................	2,250
	£5,750
Less cost of production, 1,000 tons at £5 per ton..........	5,000
Profit	£750

What would be the feelings of the Canadian manufacturer were he the victim of such competition as the following?* :—

	Price in country of origin.	"Dumping" price.
Hardware—Wire Nails (per keg).....	$3.10 to $3.53	$2.14 to $2.20
Glassware—Tumblers (per doz).......	.50	.30
Crockery—Teapots (Each)	.12 .16	.06
		(carriage paid.)

It is difficult to see how British trade can hope to prosper, or even to continue, under conditions such as sketched above.

The amount of good that can be done in fighting foreign tactics is strikingly shown by the effect of one recent and modest act of legislation. I refer to Mr. Lloyd George's Bill, the Patents and Designs (Amendment) Act of 1907, which becomes operative on the 28th August next. The important provision in this little Amendment Act is of a distinctly protective nature;† in short, holders of British patents are required to manufacture the patented article or to carry on the patented process *in the United Kingdom,* unless satisfactory reasons for manufacturing elsewhere are submitted to the Comptroller of Patents. Thus, this unobtrusive Act will check the practice of taking out patents in the United Kingdom for articles manufactured by cheap foreign labor for disposal in the British market. It has been estimated that no fewer than 8,000 patents granted to foreigners must conform to the provisions of the Act *under penalty of revocation.* The full meaning of this measure is, that the manufacture of the articles or goods, and the carrying on of the processes, covered by those 8,000 patents, must be transferred to British soil, giving employment to hundreds of thousands of British workmen. Indeed, two large German firms have arranged for the erection of branch factories in England, viz., the Elberfeld Farben-fabriken (capital of companies associated, £13,000,000), which have purchased a site near Manchester for an aniline dye factory; and the Höchst Farbwerke and allied firm of Casella & Co. (capital over £8,000,000) have secured land near Chester to manufacture synthetic, or artificial, indigo. Again, a manufacturer of safety razors has bought land near Sheffield, and the works, when completed, will employ 500 hands. In addition to the above, foreign firms of less importance, chiefly German and American, are rapidly concluding arrangements to build branch factories in Great Britain under penalty, as already observed, of revocation of their patents.

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* The Speakers' Handbook, 1907. Tariff Reform League, London, England.

† Patents and Designs (Amendment) Act, 1907 (7 Edw. VII., Ch. 28), Section 15 (1)—"At any time not less than four years after the "date of a patent, and not less than one year after the passing of "this Act, any person may apply to the comptroller for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively, or mainly, outside "the United Kingdom."

These are the first good effects of an act of legislation, highly protective in nature, but carried through by a Free Trade President of the Board of Trade and a Free Trade Government. It may be of interest to note that Mr. Lloyd George is also responsible for another Act containing a provision of a slightly protective character—the Act to amend the Merchant Shipping Acts of 1894 to 1900.* Section 12 of this Act prohibits the engagement of any seaman on board any British ship at any port in the British Islands or on the Continent of Europe between the River Elbe and Brest inclusive who does not possess a sufficient knowledge of the English language to understand necessary orders given in that language; but the section does not apply "*to any British subject or inhabitant of a British Protectorate, or to any lascar.*"

Given a general Protective Tariff, the British manufacturer must not regard it as the cure for every evil, or fall into the error that, *because* of the Tariff, trade will come to him without effort. He will still be obliged to go out into the world and seek it, but he will feel encouraged by finding himself on a fairer footing with his competitors, and he will, we trust, be spared the lamentable experience of watching his home industries, one by one, first wither, and then vanish away.

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* Merchant Shipping Act, 1906 (6 Edw. VII, Ch. 48).

I received a letter last month from a manufacturer in England who had come to Canada to try and get business, and who, some weeks later (to use his own words), had "returned home rejoicing." The following extract from this letter seems to be an appropriate conclusion to this division of my subject:—

> "British manufacturers, on the whole, are too slow, and seem afraid to venture far away from home...... I have written quite half-a-dozen houses, all of which are without pluck and prefer to let someone else get the trade. When will England fully appreciate and use her golden opportunities? Since my return home I have been kept very busy rearranging my factory and getting new machinery made to cope with the new business......"

My correspondent certainly deserves every success!

A Protective Tariff for the revival and sustenance of trade will profit England little if the blight of Socialism be allowed to spread unchecked, exiling capital by its mischievous doctrines, stifling private enterprise by its caprices, and indulging in promiscuous spoliation.

IV.

(c) *The Growth of Socialism.*

Lord Rothschild declared a few months ago that capital had been leaving Great Britain at the appalling rate of £150,000,000 per annum during the last three years. This was an estimate, but a correct one, and it may readily be checked by a slight calculation from the figures of the Report of the Commissioners of H.M. Inland Revenue for year ending 31st March, 1907—the last Report given to the public. A table to be found in this Report of "identified" income from foreign investments (that is, upon which Income Tax has been actually collected by the banks from coupons, etc.) shows the following remarkable increase*:—

	"Identified" Income from Foreign Investments.
1904-5..	£66,062,109
1905-6..	73,899,265
Increase.. ..	£7,837,156

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* "Depreciation in the Value of Securities and Investment of British Capital Abroad." Pamphlet by Sir Joseph Lawrence, December, 1907.

This increase of £7,837,156 in income from external sources represents, at an average return of 5 per cent., a capital sum of £156,743,120 employed abroad *in excess of the previous year.* The whole amount of "identified income," viz., £73,899,265, on the same basis of 5 per cent. represents an invested capital of £1,477,985,300. Including "unidentified" income, the grand total of British capital employed abroad may be taken at well over £2,000,000,000! Sir Joseph Lawrence says that it may be "anything between £2,000,000,000 and £3,000,000,000. But "whatever the sum be, it is undeniable that it represents a vast "wages fund, a fraction of which would give employment to "thousands of men in Great Britain if it were retained in this "country." This increase of £156,743,120 in investments abroad during the fiscal year last reported is the more remarkable in view of the fact that the average annual increase during the nineteen preceding years was £22,688,533 only! Unhappily, there is good reason to believe that this enormous emigration of capital has been fully maintained, if not largely exceeded, during succeeding years; for capital is a highly sensitive commodity, influenced by the bare suggestion of insecurity or of disturbance. "The moment the victories of the "Labour Party became known, Home Securities generally, and "English Railway Stocks in particular, were 'sold in cartloads,' "and the proceeds invested in some Foreign Government "securities and in Railway bonds and shares of foreign "countries."* The same authority tells us that "depreciation "of securities has been going on for eleven years. In ten years "—between the end of December, 1895 and December, 1905— "the Bankers' Magazine list of 325 Representative Securities "had depreciated by £120,000,000. Whereas, since January, "1906 (to December, 1907), the depreciation has amounted to "£443,608,000." (It should be stated, however, that £141-000,000 sterling of this depreciation is due to the bonds and stock of 17 American railroads having been included. The net depreciation in 1906-7 in British securities, therefore, was about £302,000,000.) If the same rate of depreciation had extended to all securities officially quoted on the London Stock

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* Sir Joseph Lawrence. Pamphlet on "Depreciation in the Value of Securities and Investments of British Capital Abroad." December, 1907.

Exchange, viz., £9,324,000,000, the loss in value during the above years would have been £1,109,048,000.

Why this deplorable exodus of capital from Great Britain and why this heavy depreciation in securities? Four main causes are responsible:—

1. General financial and commercial depression.

2. The threat of legislation inimical to capital.

3. The higher interest return obtainable on foreign and colonial investments.

4. The rise of Socialism.

It is to the fourth cause, as being the more likely to be permanent, that I here desire to refer.

A few months ago public attention in this country was drawn to the growth of Socialism in Canada (particularly in Western Canada) by two very dissimilar public men,—Mr. E. S. Clouston, General Manager of the Bank of Montreal, and Mr. J. Keir Hardie, Socialist and Labor member for Merthyr Tydvil in Wales,—by the former with regret and words of warning; by the latter with satisfaction. The Labor Party in Great Britain having definitely enrolled itself under the red banner of Socialism, will henceforward, by increased Parliamentary representation, pit its rapidly augmenting strength against the State, beggaring the fighting services to secure money for Old Age Pensions for non-contributing pensioners, and sapping national resources to provide by artificial means "free-everything" for both the work-less and the work-shy. (The latter class is now fully recognized in England.) "Under "Socialism there will be no able-bodied unemployed," declares Mr. F. W. Jowett, Labor member for West Bradford. "The "army of unemployed is due to the present system of capitalism, "which Socialism seeks to destroy at the earliest opportunity." How Socialism, having destroyed Capitalism, is to provide employment, universal, constant, and profitable, both for those who seek it and for those who would rather walk into the sea to avoid it, it is difficult to imagine. Presumably, the State is to become the sole employer in lieu of individual or corporate employers, but even this supposition does not logically explain the Utopia promised the workingman by modern Socialism. Will labor disputes cease, one wonders, when the State, as sole employer, shall have replaced iniquitous private capitalists? "The ultimate goal is Socialism," we were again told a few weeks ago by Mr. G. H. Stuart, Socialist candidate in the Dundee election in which Mr. Winston Churchill was finally successful in securing his seat.

One sometimes hears the term "effete" applied to the Mother Country. Happily, it is, at present, a libel—a defamatory adjective not founded upon, nor supported by, fact. Should it be possible at some regrettable time in the future to apply *with truth* this term "effete" to the Mother Country, her effeteness will be primarily and directly due to the withering blight of Socialism. "I am not looking for work now," said a vagrant in a London police-court the other day, "I am waiting for Old Age Pensions." Apply this facetious remark *au sérieux* to the British working classes as a whole, and one has a not very incorrect idea of their present attitude of pauperized helplessness, expectant of everything from the Labor Party and from Socialist leaders.

In the course of this enquiry into the state and conditions of trade in Great Britain, I accumulated considerable statistical and other data regarding kindred spirits, notably, comparative Returns relating to Emigration and Unemployment; Pauperism, Poor Law Relief and Public Charities; also various individual estimates of Public Wealth* and other memoranda, but I am warned by the present length of this paper that it must immediately be brought to a close.

To conclude.

Her detractors notwithstanding, Great Britain still remains true to her heritage of lofty ideals of life and action; she still is, as she has been for centuries, the home of justice, unflinchingly administered; a country whose standard of business morality is something to be lived up to; where the politician who dares to deviate from the paths of integrity and virtue is doomed; whose people still cling with devotion to the religious beliefs of their fathers. And we, in Canada, should remember that the self-same problems that have vexed the Mother Country in the past, and that vex her to-day, will surely have their counterparts in this

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* Journal of the Royal Statistical Society, Part I, Vol. 71 (pages 65 to 101).

Dominion, if not within the lifetime of the present generation, certainly during coming generations. Let us, therefore, judge her with fairness as we ourselves would be judged. We know well how to help her in time of war; let us also help her to the best of our ability in time of peace. And let us take heart, if need be, from the example of this Mother Country; for have not trouble and trial and strife and turmoil—(and, believe me, she has seen much)—ever been met by her *with courage?*

A. Gordon Tait.

The Royal Bank of Canada,
Montreal, 26th May, 1908.

THE DOUBLE LIABILITY CLAUSE.

THE prosperity of modern civilized communities is so closely connected with their banking systems that it would be almost superfluous to draw attention to such a truism without a special reason. However it may have been in ancient times, it is almost impossible to conceive of any modern country enjoying long periods of uninterrupted and unfluctuating prosperity (however great and varied its resources might be), if it had a radically bad banking system. In our modern civilization banking holds to commerce in general very much the same relation that the circulation of the blood does to the human body; and just as in the latter, any serious divergence from normal conditions must be the forerunner of dangerous consequences, so in our commercial system any serious flaw in proper banking economy must inevitably be followed by alarming results.

In Canada we can boast, with some reason, of the general soundness of our banking system. Since the beginning of the autumn this continent has been subjected to a period of intense commercial depression; and on the southern side of the international boundary line that depression has been accompanied by the most disastrous effects. So much so, indeed, was this the case that it seemed for a time as if the whole fabric of national finance were tottering in the United States.

And it speaks volumes for the general soundness of our Canadian banking system that we, who are only separated from our neighbours to the south by an imaginary line, should have come through such a period of storm and stress with so little of damage or inconvenience.

I start then from the point that the Canadian banking system is not only a good one, but has proved its merits under a somewhat rigorous test. But because the Canadian banking system is good, it does not necessarily follow that it is absolutely perfect. Absolute perfection is, indeed, almost impossible in human affairs, and the very fact that it is proposed to introduce some modifications in the Canadian Bank Act proves that it is realized that there are still some slight details in regard to which our Canadian system is capable of improvement. It is with the desire of drawing attention to what I personally regard as a flaw in the Canadian banking system—namely, the clause which imposes on shareholders in Canadian banks a double liability—that the following article is written.

At the very outset I will start with the admission that this double liability (whatever its actual effects may be) has been made a part and parcel of the Canadian banking system with the best possible motives in view. The desire of the framers of this particular clause was obviously to protect and advance the interests of the general public. That their motives were eminently praiseworthy cannot therefore be questioned. The question which really has to be considered is this: "Does, or does not the Double Liability Clause in the Canadian Bank Act really work in the interests of the general public?" In other words, I admit at the very outset that the *theory* on which this clause was introduced is correct; but I at the same time submit that if it can be shown that *in practice* the tendency of the clause is not to promote the interests of the general public, then it is high time that what is after all in the nature of an experiment should be abandoned. I say "in the nature of an experiment" advisedly; because other countries whose banking systems are also admittedly sound have no such a principle attached. I believe I am correct in stating that neither in England, Scotland, nor Australia are the shareholders of banks liable beyond the actual monetary value of their shares. Now, there can be no question that in all these countries the banking laws have been framed with the greatest possible care, and with the utmost and most scrupulous regard to the interests of the general public. And yet, under none of these varied banking systems has it been found necessary or desirable to impose a double liability on shareholders in banks. If this be so, it seems clearly to follow that the double liability imposed under Canadian law is not so much a necessity of sound banking, as an experimental attempt to improve on methods which elsewhere (and in places where the interests of the general public are clearly safeguarded with the most vigilant care) are regarded as perfectly satisfactory and sufficient. This fact alone seems to warrant our demanding that the framers of the Double Liability Clause shall show that its provisions have proved salutary in actual practice. I admit, of course, that the mere fact that other communities have agreed to "leave well alone," does not by itself preclude the possibility of there being a more excellent way. But, on the other hand, I think that such experience (even though it be of a negative kind) does justify us in postulating that the burden of proof shall be placed on the framers and supporters of the Double Liability Clause, and that it is for them to show that this clause has been attended by positive and preponderating advantage, rather than for those who would desire to have it abrogated, to prove that it is actually injurious. If, therefore, I can succeed in showing that it is of no positive or obvious advantage, it seems to me that I shall have done all that is really incumbent on those who oppose the principle of such a clause; though, of course, if I can also show that it is in its nature and essence disadvantageous, I shall still further have strengthened my position as an opponent of this enactment.

Now, I suppose it will be generally admitted by those who support the Double Liability Clause that it is designed as a protection to the public at large, and I admit that at first sight it might seem to be such. The argument apparently is this. If a bank fails when the shareholders are only liable to the extent of their individual shares, then the depositors in that particular bank have only a single protection; but in countries where the double liability clause is in operation, depositors have a double protection. Now, although this argument seems correct as far as it goes, it will, I think, on examination be found to contain more than one error. In the first place, it is obviously based on the assumption that in the case of a bank failing, the depositors are the only class of people who require protection. As a matter of simple mathematics this can be shown to be incorrect. A depositor (if he have a savings bank account) is drawing from the bank 3 per cent. To such a depositor the bank is a money-making machine to the extent mentioned; while he further has the enormous advantage of being protected by government regulations to a large extent (and possibly to the sum total) of his deposit. In periods of average prosperity a purchaser of shares in any of the leading banks will not at the price he has to pay for such shares get much more than 4 to 5 per cent. He will not, therefore, on the average get more than 1½ per cent. above the depositor in the savings bank department. On the other hand (even without the double liability), his position in case of the suspension of the bank is immeasurably inferior. Before he can recover a cent of his investment all the depositors will have to be paid in full, and in case of a bad failure, he will get nothing. Suppose, for instance, that a brother and sister (whom we will call A and B), to have each received five thousand dollars on the death of an aunt. They each place their legacy in a bank of apparent stability, but Mr. A (who is waiting for the oppotunity of a good investment) places it on deposit, and Mrs. B, who is a widow, buys shares of the bank to yield her, say, 5 per cent. In six months' time, owing to some unexpected and unforeseen cause the bank fails. Observe the difference between the two interested parties. A gets out of the fiasco with $5,075 in his pocket (representing the principle and interest for six months); while his sister, Mrs. B, in any case may lose the whole of her $5,000, and (under the present Canadian law) may be liable for an additional sum besides.

There is surely no reason in justice or common-sense why depositors and shareholders should receive such different treatment. Every depositor can potentially place his money in a savings bank account; and this being so the advantage which the shareholder has over the depositor in the matter of increased returns is not on the average more than about 1½ per cent. In other words, the shareholder does not get more 50 per cent. advantage so far as interest is concerned. On what principle then should he, so far as liability is concerned, be subjected to a loss of 200 per cent.?

The theory that depositors alone require protection is surely incorrect if we regard the question from a practical point of view. As a matter of fact, I suppose, at least, 95 per cent. of the shareholders of any given bank are as much at the mercy of the directors as are the depositors. Both classes (shareholders and depositors) belong to the general public; and it is a want of appreciation of this fact which has led to so radical and (in my opinion) unjust treatment of the one class as compared with the other.

Some months ago I was discussing the double liability clause with a wholesale merchant of Montreal, who defended the clause by the following argument: "If," he said, "a man chooses to go in for banking, he must expect to be liable to the depositors." His argument, I suppose, voiced the general principle on which the Double Liability Clause was introduced into the Canadian Banking Act; but it is surely based on a misconception of the actual facts of the case. It is not, as a matter of everyday experience, true that when a man buys shares in a bank, he "goes in for banking." For, if it were true, it would be equally true that when a man buys shares in a milling, a coal, a canning, or any other company, he therefore enters that particular business. To take a particular example: A large number of shares in the Canadian Pacific Railway are held in Germany. Can it be reasonably held that a German citizen, who buys a few C. P. R. shares as an investment, thereby becomes a "railway man"? Or if a friend of mine buys shares in the Ogilvie, or Lake of the Woods Flour Mills, does he thereby become a miller?

As in all other businesses, so in banking, the public must be protected against fraud or incompetence on the part of those who are actually directing this particular commercial concern; but to contend that a man becomes "a banker" merely because he buys a few shares in any given bank is as unreasonable as to say that he becomes "a miner" because he buys shares in a coal mine.

Apart then from all other considerations, it is surely desirable in securing the interests of the public at large to secure, as far as possible, the interests of the shareholders in a bank as well as those of the depositors; for both classes are equally members of the general public, and a serious loss to either must have far-reaching effects.

I have thus far only considered the effect of the Double Liability Clause in the case which it was directly framed to meet, namely, the failure or suspension of some particular bank. But it would be equally unwise and short-sighted to suppose that this is the only point worth considering. To get a true view of the situation, we must regard the clause not only when in direct operation, but in its general effect on the welfare and stability of the banks in Canada subject to its operation.

Now, as I began saying, the prosperity of a country depends largely on the soundness of its banking institutions. The higher the credit of the leading banks, and *the more their share are regarded as desirable means of investment by the people at large,* the better will it be for the country. Anything, therefore, which to any appreciable extent tends to prevent the public at large from regarding shares in a good bank as one of the most desirable kinds of investment, must be prejudicial, not only to the banks themselves, but to the best interests of the community at large.

It is here that I think the present state of the Double Liability Clause is a cause of actual detriment. Every company composed of shareholders must (at least, to some extent) depend for the success of its operations on the attractiveness of its shares to the investing public. To this rule a banking company offers no exception. Every such banking company may be regarded as competing in the open market, not only with other banking companies, but also with industrial companies of every kind for its fair share of the patronage of the investing public. Anything which will detract from the attractiveness of a commercial company as a suitable field for investment must harm that company. And still more, anything which detracts from banking companies as a body, and renders their shares less attractive as investments to the moneyed classes, must surely be prejudicial first to the banking companies themselves, and incidentally, but none the less actually, to the whole community.

And here I may mention, by way of parenthesis, a fact which seems to me to have a very important bearing on the whole subject. There is at present nothing in the Bank Act to make the existence of the Double Liability Clause known to a potential purchaser of shares in a Canadian bank. Thus, it may frequently happen that an investor will purchase shares in a Canadian bank without being aware, at the time of his purchase, what liabilities that purchase entails. In other words, he becomes a party to a contract, of which a very important clause is undisclosed. If then the Double Liability Clause is to be maintained, there should surely be added to it a subclause making it compulsory that in the case of a sale the purchaser should be clearly informed that when he is purchasing shares in a Canadian bank he is at the same time rendering himself liable to a double liability. If, however, such a provision were introduced into the Act I will venture to say that it would have the additional effect of making purchasers much more chary of purchasing bank shares. I am the more confident on this point because two instances have recently occurred within my own personal knowledge, of money having been invested in shares of Canadian banks without the purchasers having the least idea that they were incurring a two-fold liability, should anything occur to affect the stability of the particular banking company in which they had invested. It so happened that subsequent to their purchase each of these gentlemen became aware of the additional liability attaching to their shares. They had, I should say, bought shares in different banking companies; but either investment might with perfect propriety have been termed "gilt-edged." Now, what was the consequence when they discovered their position? They each began to consider that an investment which carried a double liability was not really satisfactory. In the case of one of them, the shares which he had bought had increased a few points by the time he discovered the existence of his double liability. These shares he had purchased as an investment, and had intended to hold; but though he still had implicit confidence in the stability of the institution whose shares he had purchased, he determined to sell out, and invest his money elsewhere.

The other was not quite in the same position. He had bought his shares, just before the commencement of the depression, and the consequence was that they had declined a few points. But he told me himself that as soon as they recovered to their former level, it was his intention to invest in some concern which did not carry a double liability.

I have advanced these illustrations with some hesitation; first of all, because I fully realize that it is by no means satisfactory to base an argument on two single cases; and secondly, because it is perfectly conceivable that banking experts might have some valid counter-argument. Still, with these reservations, I give the facts for what they are worth; and I may add that though these are the only two instances of which I am myself positively aware, I shrewdly suspect that these two cases are samples of many others. And I may add that both these investors were university men, while one of them holds an important position in the educational world.

Again, it seems to me that the principle on which they each proceeded was a sound one. Each at the outset said to himself, "A sound banking institution is just the kind of concern whose shares I should wish to purchase. I have faith in the judgment and character of those who are directing the leading banks of Canada, and I believe in the future of the country. As the prosperity of the Dominion increases, so must its banks become increasingly desirable fields for investment. Therefore, I cannot do better than invest in a Canadian bank." But when they found that the possession of shares in a Canadian bank entailed a double liability they each realized that a new consideration must be added to their calculations. Their faith in the stability of the particular banks in which they had invested remained unshaken; but on the other hand the position of those banks regarded as competitors for the patronage of the investing public with other industrial companies had undoubtedly changed. There were quite a number of industrial companies within their cognizance, the purchase of whose shares would yield a return quite commensurate to that yielded by buying shares in a first-class bank, and which might at the same time be regarded as affording all reasonable security. Without the existence of the Double Liability Clause they preferred to invest in Canadian banks, but the possible consequences entailed by such a clause were now just sufficient to turn the scale, and make them resolve to vary the character of their investments so as to eliminate the possibility of any loss beyond that of the money actually invested.

I admit, of course, that this is a debateable matter, and that said, it appears to me clear that so far from strengthening the position of the banks of the Dominion, the Double Liability Clause must, in its ultimate tendencies, be regarded as a source of actual weakness. It is far more important to render the general banking system of the Dominion so secure that even in times of depression there shall be no cause for alarm, than to afford extra protection to the depositors of an individual bank, when a calamity has once occurred. In this case, as always, "prevention is better than cure." At present (if my reasoning be sound) the Double Liability Clause has the direct effect of preventing persons who would gladly invest in the shares of Canadian banks from doing so to the extent that they otherwise would; and even though the number of potential investors thus eliminated should only be one per cent. or one per thousand, the principle would remain the same.

I admit, of course, that this is a debatable matter, and that I am writing in the main from what may be regarded as the layman's point of view. So far as this particular fact is concerned, I hardy think that any apology is necessary, indeed, I am somewhat strongly of the opinion that there is a tendency in matters of this kind, even where the layman is a directly interested party, to disregard his opinion to an exaggerated extent. If I may cite an example to which I have already referred on a former occasion, it seems to me that if in the drafting of the law dealing with cheques more consideration had been given to the layman's point of view (and for this purpose I include "bankers" amongst "laymen"); a very much more satisfactory Act would have been produced.

And, as a matter of fact, in the case of banking it must surely be the greatest possible mistake to pretend that the interests of the lay public are in any way divergent from those of the banking expert, however different the knowledge of the different classes may be. It is alike in the interests of bankers and their clients that the system of Canadian banking should be unassailed and unassailable; and it is largely because the general public has already such a high opinion of the general methods of Canadian banking, that the Dominion has so successfully passed through the recent period of financial depression.

R. E. MACNAGHTEN.

THE MARKETING OF FRENCH PRODUCTS IN OLD QUEBEC.

As a commerical city under the French *régime,* Quebec held a privileged position. It was, on the one hand, the shipping point for all trans-Atlantic traffic. The commercial intercourse between the colony and the Mother Country passed almost exclusively through this single port, making it the centre to which all lines of traffic in colonial products converged. On the other hand, it was the one port of entry for the colony; consequently it became the distributing centre for all merchandise brought into Canada. To a certain extent also it became the headquarters for wholesale trade. Furthermore, it had the advantage of being the largest local market in New France, supplying the most thickly settled section of the St. Lawrence valley. In the earliest days of the colony there was, of course, practically no market for French goods in Quebec; but with the growth of population around the city itself, and with the development of Montreal and of the trading posts in the region of the Upper Lakes, a market gradually came into existence.

Just when Quebec began to be looked upon as a purchaser of French goods it would be impossible to say. The early bartering with the Indians involved but little outlay; it could hardly be expected to make any appreciable difference in the output of blankets, hatchets, knives, and trinkets. The capture of Quebec by Admiral Kirke in 1629 may possibly have made French merchants realize that they had lost a market that promised well for the future. There is a suggestion to this effect in the pages of Le Clerq. This ecclesiastical writer (Etablissement de la Foy; Vol. I, p. 316) points out that the occupation of Quebec between 1608 and 1629 had demonstrated the value of the colony to the Mother Country. One of the arguments is clearly commercial, and Le Clerq phrases it as follows:—"Finally, as there are on our coasts a quantity of produce, manufactures and merchandise of every kind which could not by a great deal be sold in the kingdom, commerce would be the more advanced by carrying them to Canada where they could readily be disposed of."

For some years after the recovery of Canada in 1632, the volume of traffic between France and the colony was far too small to admit of mercantile enterprise in Quebec. As late as the year 1640 one of the Jesuit Fathers lamented the fact that no supplies for the Jesuit mission stations could be procured in Quebec, as no stores had yet been opened. The fire of 1640 had consumed the Jesuit mission house, and with it all the supplies intended for the mission stations in the Huron country. In the Relation of that year, Father Le Jeune writes:—"As there are here no trading places from which necessaries can be obtained, we have everything brought from France which is necessary for subsistence in this new world,—and since Quebec is the port from which the goods unloaded here are shipped to our other stations, we had got together in our house here, as in a small store, all the supplies needed for the other missions."

Within a few years after Father le Jeune's letter, the colony had begun to make perceptible progress. By the time that Canada became a royal province in 1663, the pioneer conditions of the earlier days, as depicted above, had been transformed to such an extent that merchants were already doing a wholesale and retail traffic in Quebec. The conditions under which they were permitted to place their goods on the market appear to have been carefully regulated by the Governor and the *Ancien Conseil.* But as the records of this body are not available the beginnings of this form of commercial enterprise cannot be discussed with certainty. We know that the Governor fixed a price upon every kind of commodity imported from France, and that merchants who deviated from this official tariff were subject to a fine. The commodities first marketed would appear to have been wines, brandy, and tobacco; though cloths and agricultural implements must have had a fair demand.

The institution of the *Conseil Souverain* in 1663, and of an Intendant of Justice, Police, and Finance, brought commercial enterprise more than ever under the supervision and regulation of the civil authorities. Fortunately, the records of the proceedings of the council were carefully preserved by the

Greffier, or secretary; and the publication of these a few years ago placed at our disposal a fund of information on this, as on every other subject connected with life in the colony. To pursue the question of the marketing of French products, as it came before the council through all the years of the old *régime,* would obviously take us beyond the limits of this article. But if we may choose, by way of illustration, the first two years of the council's deliberations it will enable us to judge both of the theory and the practice governing this particular phase of colonial activity.

It is hardly necessary to state that the merchants of Quebec received consignments from home ordinarily but once a year. The fleet sailed from La Rochelle so as to make Quebec towards the end of May or the first weeks in June. Its arrival broke the long silence of the winter months and threw the port into a bustle of activity. The vessels remained in the roadstead till October, the "governor" of the fleet always trying to get his ships into the gulf before the November winds set in. The departure of the ships brought on the port a sense of stillness which contemporary writers seldom fail to mention. The number of vessels composing the fleet varied according to the demands of the traffic, and also according to the dangers of navigation arising from the perpetual maritime wars of the eighteenth century. In the Relation of the year 1643 one of the Jesuit Fathers writes:—"The ships weighed anchor from before Quebec the 7th of October last, 1642. Their departure produces a wonderful silence here, and directs each man's attention to his own family in deep tranquility." Again, in 1664, one of the Jesuit Fathers says, evidently calling attention to the unusual number of vessels in the harbour,—"We have this year (1664) eleven vessels, laden with all sorts of wares, anchored in the roadstead of Quebec." As late as 1749, the Swedish traveller, Kalm, writes of seeing thirteen ships lying in the roadstead in the month of August, while others were expected in the course of the season.

As noted above, the *Conseil Souverain* was instituted in 1663. In that very same year the new body proceeded to enforce regulations and restrictions upon the merchants of the city. One of the first steps in this direction was to impose an ad valorem duty of ten per cent on all goods brought into the colony. This imposition was clearly against the declared policy of the French government, for no export duty was charged when the vessels cleared from France, and importations into the colony, with the exception of wines and tobacco, were supposed to be free. Consequently, the Quebec merchants protested against the new duty, and appealed to the home government. Pending the appeal, the council continued to levy the duty. Thus, early in the year 1663 an order was issued expressly forbidding merchants who had goods on board vessels in the roadstead from unloading until the ten per cent. duty had actually been paid. Several merchants thereupon resorted to subterfuge, and attempted to unload their consignments "*furtivement.*" The council thought it necessary to enjoin its inspectors and collectors to exercise greater vigilance, on pain of forfeiting their salaries if detected in negligence; while the merchant who succeeded in landing his goods furtively, if detected, was to have his entire shipment confiscated. In the event of confiscation, it was decreed that one-third of the value should go to the royal treasury, one-third to the hospital (*Hôtel Dieu*), and the remainder to the informer. It may be interesting to note that the two commissioners appointed to collect the duty were the Sieur de Tilly and the Sieur de Repentigny.

Besides imposing this port duty, the council, following a precedent in use for many years in the colony, fixed the prices on all commodities offered for sale. For merchandise imported in 1663, an *arrêt* of that year allowed a selling price at a 65 per cent. advance on the cost price at home, the port duty of 10 per cent. being included within the 65 per cent. But the merchants apparently were inclined to disregard the council's tariff, and to charge what the traffic would bear. Complaints of this continued to reach the council, which thereupon passed a resolution summoning the offending merchants to answer for overcharging. "It has been represented," so the resolution runs, "that merchants take no pains to follow in any manner the tariffs and *règlements* which have been heretofore made for the marketing and retailing of their goods, and since they have overcharged excessively, to the great prejudice of the public, the council has ordered, and does now order, that the said merchants be summoned to show their ledgers and daily accounts,—and the said accounts and books, it is further ordered, shall be inspected."

Early in 1664 the ten per cent. duty was taken off, except in the case of wines and brandy, the home government having decided against the council and in favour of the merchants. The council remitted the tax, but gave notice at the same time that henceforth it would regulate all freight charges on merchandise brought into the colony. And it further gave notice that merchants henceforth would be required to have a license from the governor before engaging in traffic, and that they were to keep careful accounts not only of all goods sold, but also of the persons to whom the sales were made.

By the time that the fleet of 1664 arrived (the same eleven vessels spoken of above), the policy of the council with reference to the merchants had become fairly well outlined. It may be interesting to see how that policy was carried out during the course of the year.

On June 30th, the merchants were ordered to bring before the council their books, showing a statement of the goods received from France by the fleet then just arrived The next day the council issued an *arrêt,* establishing the basis of the tariff for the season. Goods were to be classed as dry and liquid. On dry goods a uniform advance of 55 per cent. was to be allowed on the cost price in France; on liquids of the best value, an advance of 100 per cent., on others 26 per cent., provided the original price did not exceed one hundred livres a ton. But lest the merchants should evade the intent of the *arrêt,* by stating the cost price on their own responsibility, it was provided that in every case the original cost price should be passed upon by commissioners appointed by the council. It would appear that in this year the merchants put off unloading their consignments of salt, evidently hoping to be able to advance the price on account of the enforced scarcity. The council promptly thwarted this move by ordering on July 8th, that the salt should be unloaded immediately, and placed on sale at the fixed tariff. Another instance of forced sale occurred later in the year when a woman from Cap Rouge complained to the council that a certain merchant refused to sell goods to her, even though the required price had several times been offered. The council ordered the merchant in question to sell to the woman on penalty of fine.

On July 9th, commissioners were appointed to determine the cost price upon which the selling prices for the year were to be based, and the same day the merchants were ordered to put their goods on sale. They were forbidden, however, to dispose of more than one-tenth of their stock in any one commodity wholesale, within the first thirty days. By July 26th, complaints of overcharging came to the council, and an order followed with more specific provisions for enforcing the tariff. "It is decreed," so runs the order, "that there are to be in force only the prices regulated by the tariff, on all goods coming from France, which are to be sold in this country by any persons upon any pretext whatever. To this end there will be delivered to the merchants a copy of the tariff which has been settled for them, and they shall be required to put it in schedule form and hang it in plain sight in their warehouses and shops. And, furthermore, copies of the said tariff, containing the prices on every kind of goods are to be affixed in public places so that all may be informed thereof."

This order had the effect apparently of maintaining a uniform price. Not completely so, however. On November 5th, after the fleet had sailed and the trading season was nearly over, the council issued an order to the merchants to produce their accounts for inspection. The day following the merchants appeared before the council and their books were examined. Five were detected in overcharges; they were condemned to restore to their several purchasers the full amount of the overcharges which they had exacted. On the 19th of the same month the syndic of Quebec appeared before the council and lodged a complaint against one Rousseau for having sold certain goods without giving the purchaser a "check" stating the price charged. The year closed with the levying of fines of five hundred livres each for infractions of the council's rules.

It is hardly necessary to suggest the general conclusion to which the action of the council and the subterfuges of the merchants point. The conditions under which the merchants carried on their enterprises appears further in notices written from time to time by travellers who visited Quebec.

The Baron de Lahontan, in his *Mémoires de l'Amérique Septentrionale,* published in 1703, devoted a very short section of his book to the question of Canadian commerce. "The Normans," he writes. (*Mémoires,* pp. 65-72), "were the first to take advantage of this traffic, and their sailings were made from Havre de Grâce or from Dieppe; but the Rochellais have taken their place, for the vessels from la Rochelle now supply the goods needed by the inhabitants of this colony. A few, however, sail from Bordeaux and Bayonne with wines, brandy, tobacco, and iron.

"The ships that clear from France for Canada pay no export duty on their cargo, nor any import duties at Quebec, except on Brazilian tobacco, which has a tariff of five sous the livre. Other goods pay nothing.

"Most of the ships that clear for Canada with a cargo return empty to la Rochelle, (though some proceed elsewhere to load for the return voyage)...... The Sieur Samuel Bernon of la Rochelle does the largest volume of business with the colony. He has stores in Quebec, from which merchants of other towns procure their supplies. This is not to be construed as meaning that there are no other merchants with capital enough to charter ships on their own account for the trade between Canada and France. These latter have their correspondents at La Rochelle who despatch and receive annually the cargoes of their boats."

Continuing, the Baron de Lahontan proceeds to estimate the general character of the Quebec merchants in no very favourable light. They were, in his opinion, little better than pirates. "There is," he suggests. "but a slight difference between the Corsairs that scour the seas, and the Canadian merchants. The latter, free from all risk and danger, secure their booty by exorbitant prices, and often amass a fortune in one season; the former have to hazard their lives for five or six years to realize a similar profit. I know of twenty small tradesmen who, when I first reached Quebec in 1683, had a capital of barely a thousand crowns; when I left Quebec their gains had totalled twelve thousand crowns. It is undeniable that they make fifty per cent. on all merchandise in general, whether they stock up on the arrival of the fleet, or whether they receive their consignments direct from France. And there are certain luxuries and trifles, such as ribbons, watches, and a thousand other trinkets and fripperies, on which they clear, above expenses, from one hundred to one hundred and fifty per cent."

The general management of the marketing, the same author describes as follows:—

"As soon as the vessels from France reach Quebec, the merchants of the town who have agents in other places despatch goods to them in boats of their own. Those who do business on their own account in Montreal or Three Rivers come down to Quebec to take delivery of their stock, which they load into boats and take back with them. If they settle their accounts in peltries they get better terms than with money or letters of exchange, because the vendors are sure of a good profit on skins when they return to France. These skins usually come to them from the *habitants* and the Indians, out of whom they make exorbitant profits. For example, a *habitant* in the vicinity of Quebec will bring about a dozen martens, five or six foxes, and as many wild-cats to barter at a shop for cotton and woolen goods, arms, ammunition, etc. In this transaction the merchant gets double profit, because, in the first place, he really gets these skins at an estimate of half their actual value, and in the second place he offers his own goods at a valuation which literally fleeces the pooor *habitant.* Is it any wonder that such swindlers put up a better appearance than almost anyone in Quebec?"

Lahontan concludes his sketch of the Quebec merchant with a list of all the articles usually offered for sale in the Quebec shops, together with the value of the different skins accepted in exchange. The list is too long for quotation here. After Lahontan, we find a few observations upon our subject made by M. de Bacqueville de la Potherie in his *Histoire de l'Amérique Septentrionale,* published in 1722.

"The business done in ordinary goods," he writes (*Histoire,* pp. 276-278), "is not very considerable; it is only profitable to the smaller tradesmen from other towns, who turn over some seven or eight thousand francs worth of French products annually. If anyone tried to turn over anything like twenty thousand francs worth, he would find great difficulty in getting rid of his stock in one season. There are, however, certain merchants who do a very large retail business...... Wine and brandy retail more readily than any other commodities.

"The period when business is brisk in Quebec is in the months of August, September, and October, while vessels continue to arrive from France. A market is instituted in the lower town; all the shops and stores make a display of their wares...... Towards the end of October the *habitants* from the country-side can be seen coming into town to make their yearly purchases. Merchants and their customers all try to get their business done before the departure of the ships, in order to avoid the north-easter which sets in about the time of All-Saints...... The roadstead, suddenly emptied of the fleet has a very sad and gloomy look about it. Everything goes dead, so to speak, and we become like ants, thinking only of getting in our provisions for the winter...... The snow, which falls lightly in October, comes down in earnest in November. Then all traffic ceases for the time being, and most of the shops are closed......"

The Swedish traveller, Kalm, who visited Canada in 1749, has also left a few notes upon the condition of trade in Quebec. "The inhabitants of Canada," he writes, "pay very little (in duty) to the king. In the year 1748 a beginning was, however, made by laying a duty of three per cent. upon all French goods imported by the merchants of Canada...... The merchants of all parts of France and its colonies, are allowed to send ships with goods to this place, and the Quebec merchants are at liberty likewise to send their goods to any place in France and its colonies. But the merchants of Quebec have very few ships, because the sailors' wages are very high. The towns in France which chiefly trade with Canada are Rochelle, and Bordeaux; next to them are Marseilles, Nantes, Havre de Grâce, St. Malo and others...... The merchants at Quebec send flour, wheat, peas, wooden utensils, etc., in their own vessels to the French possessions in the West Indies."

Again, in another paragraph, the trade of Quebec is described in the following terms:—

"Quebec is the only sea-port and trading town in all Canada, and from thence all the produce of the country is exported.

The port is below the town in the river, which is there about a quarter of a French mile broad, twenty-five fathoms deep, and its ground is very good for anchoring. The ships are secure from all storms in this port; however, the north-east wind is the worst, because it can act more powerfully than the others. Uhen I arrived here, I reckoned thirteen great and small vessels, and they expected more to come in. But it is to be remarked that no other ships than French ones can come into port, though they may come from any place in France, and likewise from the French possessions in the West Indies. All the foreign goods which are found in Montreal, and other places of Canada must be taken from hence. The French merchants from Montreal, on their side, after making a six months' stay among several Indian nations in order to purchase skins of beasts and furs, return about the middle of August and go down to Quebec in September or October in order to sell their goods there. The privilege of selling the imported goods, it is said, has vastly enriched the merchants of Quebec; but this is contradicted by some, who admit that there are a few in affluent circumstances, but that the generality possess no more than is absolutely necessary for their subsistence, and that several are very much in debt, which they say is owing to their luxury and vanity. The merchants dress very finely, and are extravagant in their repasts; and their ladies are everyday in full dress, and as much adorned as if they were to go to court."

It will thus be seen that, with one or two minor exceptions, the three writers quoted,—Lahontan, la Potherie and Kalm—agree substantially in their versions of the opportunity of the Quebec merchants to make a fairly large profit upon a comparatively small outlay. In view of the evidence which they bring to the question, the action of the *Conseil Souverain*, as noted above, in restricting and regulating the selling prices of all imported commodities, would appear to have proceeded directly in the interests of public welfare, and not, as would seem to be the most plausible explanation, from a spirit of officiousness.

From other sources than those above mentioned, we learn that the high price of goods put on the Quebec market was not altogether due to the grasping nature of the merchants. For thirty years and more, between the years 1689 and 1760, France and England were at war, and French merchant vessels ran serious risk of capture on the passage between La Rochelle and Quebec. Under such circumstances the cost of freight and insurance, added to the depreciated paper currency of the colony, sent prices up to a very high figure. There is, fortunately, direct evidence on this point in a memoir, written supposedly by a Quebec merchant shortly after the close of the French *régime.* The manuscript of the memoir is in the Bibliothèque du Roi, in Paris; it will be found printed in the First Series of Historical Documents of the Quebec Literary and Historical Society, under the title:—*Réflexions Sommaires sur le Commerce qui s'est fait en Canada.*

According to this authority, the declaration of war between France and England in 1744 advanced prices immediately. Insurance, which before the outbreak of hostilities had stood at three or four per cent., rose in 1744 to twenty, and later to sixty per cent. Freight, which likewise stood at from fifty to eighty francs a ton, went up to two hundred livres, and in the course of the war even to one thousand livres. Strangely enough, the Peace of 1748 brought no general fall in prices in the Quebec market; war prices continued till 1755, when they, in turn, went still higher. As a result of the war from 1744 to 1748, practically no merchandise reached Quebec from France. The supplies that came in after the Peace of 1748 (which would account for the large number of vessels which Kalm saw in 1749) were speedily exhausted, so that when war broke out again in 1755 the merchants were unable to replenish their stock. Fluctuations of the currency added greatly to the confusion in prices, by varying actual prices according to the prevailing discount on paper.

It would seem that during the Seven Years War very few merchant vessels made their way to Quebec. Our authority estimates that three-fourths of the ships clearing from France for Canada were captured. The few that did arrive brought goods so heavily insured as to make their value at unloading many times the original value at the time of shipment. To illustrate this, our authority gives a short table of the different items entering into the cost of goods unloaded at Quebec. He takes, by way of example, a case of wine, and itemizes as follows:—

	Livres.
Value placed on boaord at La Rochelle......	50
Insurance, say, at 100 per cent...............	50
Commission for insurance	2
Freight, at 600 livres a ton	150
Entry duties at Quebec	12
Incidental Expenses, unloading, etc...........	13
Total..........	277

In other words, transportation alone has increased the cost 450 per cent. "If then," suggests our merchant, "a warehouseman sells this case of wine at 300 livres, people will not hesitate to exclaim, as they so often do without examining the details of cost, that he is selling it at an advance of 600 per cent., and that it is scandalous to sell for 300 livres an article which cost only 50 livres in France."

Nevertheless, this does not detract from the conclusion drawn by Lahontan, or in any way excuse the merchants so sternly brought to task by the council. The writer of the *Réflexions Sommaires* is dealing with the period after 1744, when war introduced abnormal conditions. On his own admission, freight and insurance before the war broke out were, comparatively speaking, very low; low enough, indeed, to justify the complaints which the council continually received of the exorbitant prices exacted by the merchants.

C. E. FRYER.

SHOULD DEPOSITS BE GUARANTEED?

By James B. Forgan.

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(Part of Text of an Address delivered at Peoria, Ill., to the Illinois Bankers.)

IN the recent public discussion of this question those who have undertaken to answer it in the affirmative have used very plausible arguments, which will undoubtedly appeal to many, who, without going thoroughly into the equities of the proposition, desire to be relieved of the necessity of discriminating between one bank and another, and to have the assurance that their deposit is absolutely safe in whatever bank it may be placed. This would not be for the good of the public. It would put the people to sleep and give the rogues full scope. It is not a good thing for people that they should be treated as children or nonentities, and relieved by the government of the necessity of exercising ordinary judgment and discretion in their personal affairs. It would certainly not tend to improve either their business acumen or their social efficiency.

So far as the purely business community is concerned, to be relieved of the necessity for such discrimination could not fail to have a more demoralizing effect, tending to general carelessness and looseness in the management of business. The entire credit system on which the business of the country is built up has its very basis in the business man's discrimination.

Relations between Bank and Customer.

Let us analyze the relations existing between banks and their customers, and ascertain if there is anything in that relationship to justify the proposition that in the banking business the good should be taxed to pay for the bad; ability taxed to pay for incompetency; honesty taxed to pay for dishonesty;

experience and training taxed to pay for the errors of inexperience and lack of training; and knowledge taxed to pay for the mistakes of ignorance.

It has been charged that bankers opposed to a guaranty of deposits put the interests of the stockholders above the interests of their depositors, and that they are essentially selfish in so doing. Those who make this charge take an erroneous view of the relations existing between a bank and its depositors. The depositor invariably gets a *quid pro quo* for the use of his money. This may be in the shape of interest on his balance at a rate agreed upon; or it may be in the facilities which the bank affords him in conducting his business, such as collecting for him customers' checks drawn on points all over the country and supplying him with exchange and a convenient method of paying his debts. Furthermore, in connection with commercial deposits there exists an understanding in regard to fully 75 per cent. of them that the customer will not only be a depositor, but a borrower. It is well understood that the average deposit kept should be in proper proportion to the line of credit granted.

Deposit Based Upon Loans.

All customers are not borrowers at the same time. Each season has its own set of borrowers, so that at a time when customers in one line of business are repaying their loans, others in another line of business find it necessary to borrow. This is strikingly illustrated by the seasonal requirements of the agricultural implement manufacturers and the grain merchants. The former collect from the farmers as soon as crops are marketed, and pay up their bank indebtedness incurred during the Spring and Summer to enable them to produce, sell and deliver the implements to the farmer; the latter, *i.e.*, the grain merchants, borrow to buy and pay for the farmers' grain as soon as it is ready for market and to carry it through the winter. They repay their indebtedness again in the Spring, just at the time when the agricultural implement men have to borrow. So it runs all through the various lines of business. Large customers in certain lines accumulate large bank balances just when those in other lines are large borrowers.

The following figures, recently taken from the books of The

First National Bank of Chicago, show the relation existing between that bank and its customers in regard to their deposits and their loans. In round figures the bank has from its customers a total of commercial and personal deposits amounting to $38,000,000, and the total loaned to customers who are also depositors amounts to $50,000,000; so that the bank's loans to its regular customers exceed their aggregate deposits by $12,000,000.

These figures show that a very large part of the bank's deposits is based upon loans made to depositors. Of the loans amounting to $50,000,000, about $10,000,000 could be made immediately available for liquidating an equal amount of deposits by simply returning to the depositors their own obligations as an offset to the amount at their credit. These figures are, I believe, a fair index of conditions prevailing in connection with the deposits and loans of all commercial banks in the large cities of the country. It is, therefore, evident that the relation existing between a bank and its depositors is purely one of contract, and the depositor has no claim on the bank other than to have the contract fulfilled.

In Serving Stockholder He Best Serves Depositor.

This being the case, a banker cannot possibly serve the interests of his depositors better than by carefully looking after the interests of his stockholders. In the management of his business he cannot possibly separate the interests of his stockholders from those of his depositors. It is equally in the interest of both that the bank should be kept strong, liquid and clean as to its assets; that its management should be conservative in regard to loans; and that proper banking principles should be strictly adhered to. The suggestion that a banker can put the interests of his stockholders above those of his depositors is therefore absurd. It is on the stockholders that losses resulting from his mistakes will first fall, and if their interests are protected so that their investment is secure no possible loss can befall depositors.

It has been proposed to divide the country into twenty districts, putting the banks in each district under the immediate supervision of a board of commissioners, to be elected by the banks themselves. These commissioners are to appoint their own examiners, and it is expected that they would be able not only to diminish the number of bank failures in their districts, but that they would see to it that the banks do not make bad loans or acquire doubtful assets. It has been further proposed to make the banks in each district primarily responsible for twenty-five per cent. of all losses that may occur by bank failures in their district. It is astonishing that this proposal should have won over to the side of the government guaranty scheme some men who have heretofore been conspicuous for the soundness of their views on financial subjects. With the inadequate control which supervision by examination of the banks affords, it seems to me that no man with a proper sense of the responsibility to be assumed would accept membership on such a commission, and that it would be nothing short of an outrage to hold the solvent banks of a district responsible for losses through failures caused by practices absolutely beyond their control.....

Government Examination Essential.

I trust I shall not be misunderstood in what I say on this subject. I regard government examinations as a very essential part of our present banking system, and effective for good as far as they go. They have steadily improved in both national and state administrations during the last fifteen years. There is, however, still room for improvement, especially in regard to the qualifications and efficiency of the men employed as examiners. Political influence still has too much to do with their appointment. Civil service rules, in connection with compensation adequate to secure men of experience, would add materially to the efficiency of the department. A competent examiner—and there are many such now in the government employ—while he cannot pass judgment on all the loans in a bank, can, after a careful examination, or a series of examinations, form a wonderfully correct judgment as to the general character of its assets and as to whether its management is good or bad, conservative or reckless, honest or dishonest. But there are several degrees between the extremes of good and bad, and between the extremes of conservative and reckless management, while in the case of dishonesty it is not always easy to find evidence that will prove it, because the greatest care is always taken to hide it. Examinations as they are now conducted have a most beneficial influence on bank management, especially by way of restraint. The correspondence carried on by the Comptroller, based on the examiners' reports, does an inestimable amount of good in the way of forcing bank officers to comply with the law and in compelling them to face and provide for known losses as they occur.

Supervision Not Executive Management.

Supervision by examination does not, however, carry with it control of management, and cannot, therefore, be held responsible for either errors of judgment or lapses of integrity. Examination is always an event after the act, having no control over a bank's initiative, which rests exclusively with the executive officers and directors, and depends entirely on their business ability, judgment and honesty of purpose. Such a board of commissioners as has been proposed would not have control over the making of loans or the transactions entered into by each individual bank when and as they are made. After loans are made it is too late. The bank's money has been paid out and it has instead the loans or other assets, good, bad, or indifferent.

To illustrate what it is expected to accomplish by the appointment of such a commission to assume charge of all the banks in a given district, the practice in connection with the management of branch banks in other countries has been used. It is pointed out that several hundred branches are controlled and directed by a general manager and board of directors, and it is assumed that such a commission could similarly control and direct all the banks in its district. Under the branch bank system the branches are all integral parts of one institution and are governed and directed from the head office. Under our system each bank stands alone and has absolute control of its own affairs. Among the branches of the same bank there is no competition, and the general management is that of one institution, all parts working harmoniously together......

It must also be borne in mind that the guaranteeing of deposit in national banks either by the Federal government or by a fund in the government's hands for the purpose would disastrously affect state banks in which are deposited the great bulk of all the savings of the people, for comparatively few national banks accept savings deposits. State banks and trust companies, as a rule, combine commercial banking with savings bank business, and if the public should have the assurance that deposits in national banks are guaranteed by the government, or practically so, they would most assuredly discriminate against the state institutions. The Federal government cannot assume jurisdiction over the state banks, and it surely may be taken for granted that in justice to them no such law affecting national banks would be passed by Congress until a similarly sophistical measure were passed in all the state legislatures—ostensibly for the benefit, but, as I believe, to the demoralization of the state banks, the injury of the public, and the undoing of the entire business community.

Good-Will a Valuable Asset.

In a former utterance on this subject I argued that a bank's good-will is one of its valuable assets, and I have been criticized for making such a claim, and told that "it is difficult to conceive of a more selfish argument." I claim that the strong, well-managed and conservative banks of the country, be they large or small, have a standing and credit with the public, on which the value of their good-will is based, which are not accorded to the weak and badly managed institutions. Discrimination as now exercised by the public deters to some extent the dishonest from engaging in the business, or, at all events, prevents them from succeeding in it. Discrimination of the public, like everything human, is not perfect, and the unworthy do occasionally become established in the business of banking and appear to flourish, but they never meet with permanent success. Many banks have made for themselves excellent records and have built up good reputations which form the basis of a good-will on which the investing public place a tangible value, not merely in sentiment, but in dollars and cents. This good-will, such banks as enjoy it are not willing to have swept away by legislation of a socialistic character. It would be confiscation of the vested rights and property of their stockholders and practically confiscation of character. Nor are such banks willing to be taxed for the purpose of being reduced in public estimation to the same level with those that have neither record, reputation nor consequent good-will to recommend them......

Careful consideration of these matters cannot fail to reveal the injustice of taxing the sound and conservatively managed banks, which are in the great majority, for the benefit of the few that are unsound and recklessly managed. The sound banks do not need and would never have any call on the guaranty fund to which they would contribute, while the unsound and recklessly managed institutions would build up their business on both sides of their balance sheets, *i.e.*, in both their deposits and their loans, by granting their customers accommodations contrary to all sound banking principles and methods. The unsound banks would actually take business away from the sound ones with specious promises, to which conservatively managed banks would not resort, and on reckless terms, with which they would not compete, while to the extent of their contributions to the guaranty fund the sound institutions would support the unsound in their recklessness, besides giving them a standing and credit which they could not otherwise obtain. By a wide-open policy as to credits granted, a reckless banker could build up a mushroom business, with which no examiner, comptroller, clearing house committee, nor any other authority might find good grounds for interfering otherwise than by criticism, expostulation and advice, until some such occurrence as the failure of some large customer would compel the banks to stop, and so uncover the whole festering cesspool of bad credits and reckless banking. Shrewdness and good judgment might have anticipated the final outcome, but no one would be willing to assume the responsibility of taking drastic action on the strength of his fears. No system of supervision by bank examination, however perfect, will ever make an honest man out of a rascal.......

Would Tie Up One-Third of Capital.

With such influences at work as would exist under a system of guaranteed deposits, what percentages of taxation would be required to maintain the guaranty fund? In attempting to answer this question the advocates of the proposal are not agreed. In fact, as might be expected where only guessing can be attempted, they are widely apart in their suggestions. It must always be borne in mind when dealing with this phase of the subject, that taxes, howsoever levied, whether on capital, deposits, total resources, or profits, are invariably a direct charge on the capital employed. When capital engages in banking, as in any other line of business, it is invested subject to all fixed charges, including taxes of all kinds, and the profits can only be reckoned after these have been provided for. It should, therefore, be considered to what extent a tax on deposits would encroach on the earning capacity of capital invested. Based on the statistics of the First National Bank of Chicago for the past eight years, after allowing five per cent. on the average capital employed, the average net profits on deposits, including revenue from all sources, has been just three-quarters of one per cent. per annum. Taking all the national banks together, whatever percentage of tax is levied on deposits means a tax of something more than six times as great a percentage on paid-in capital.

Mr. Fowler's proposition that five per cent. of deposits should be placed in the guaranty fund, and that the banks be allowed one per cent. per annum on it, would mean that one-third of the paid-in capital of all the national banks would be tied up on an earning basis of one per cent. This is easily figured. The aggregate deposits of the national banks are in round figures $6,000,000,000, five per cent. of which would be $300,000,000, and the aggregate capital is in round figures $900,000,000. Applying this average to each bank would mean that one-third of the capital invested by the stockholders for the protection of the depositors in their own individual bank, organized in their own community, under a management of their own selection, and under local conditions with which they are entirely familiar, would be transferred to a guaranty fund for the protection of the depositors in the other 6,180 national banks organized all over the country, under conditions and management of which they have neither knowledge nor control, and in which they have no special interest. This would not only be grossly unjust to present bank stockholders who did not invest their money with any such understanding as to the risk involved in the business, but it would cause a heavy curtailment of the profits which they have heretofore enjoyed and on which they had a right to calculate when under the laws and conditions then existing they invested their money.

Differ as to Amount of Guaranty Fund.

It would, moreover, from the standpoint of conservatism, be an almost prohibitive barrier to the investment of new capital in the banking business. The proposition that such balances in the guaranty fund should count as part of the lawful [illegible] reserves of the banks does not help matters any, and is as absurd as it is impractical and unscïentific. Banks' reserves must necessarily be kept in lawful money, or in balances readily convertible into cash. Balances in the guaranty fund would not be so convertible. They would not be subject to the checks of the banks, nor otherwise available to them for debt paying purposes. How then could they form a part of the lawful cash reserves of solvent banks actively doing business? They would not be available for any purpose until after banks have failed, or have gone out of business. The Oklahoma law is more moderate as to the amount to be kept in the fund. It imposes a tax of only one per cent. on deposits to be maintained by future assessments, unlimited as to amount. It is practically an unlimited joint and several liability of each bank for every other bank. It will be interesting to watch developments under the Oklahoma law......

Urges Equitable and Reasonable Protection.

Anything that can be legally and equitably done to protect the depositors, to raise the standard of the banks and of the men engaged in the banking business, to protect the honest banker against the dishonest one, to keep those engaged in the business honest and to punish those who are dishonest, should be enacted into law, and the laws for such purposes cannot be made too rigid. But to attempt to make all banks equally safe by passing a law that would establish an artificial credit for the incompetent and the dishonest, enabling them to offer all sorts of specious inducements to the public for business, and thus creating illegitimate and ruinous competition against sound and conservative bankers, would have in the long run contrary and disastrous results. By the passage of such a law the rascal would be tempted to become a national banker, and to cover himself with a mantle of credit which otherwise it would be impossible for him to acquire, and which would be provided for him by and at the expense of all the good national banks in the country. This would not be a "square deal." It would place a premium on dishonesty and reckless banking and tend to abate the ambition of good bankers everywhere to excel in their calling and to acquire that good name which Solomon says, "Is rather to be chosen than great riches." The proposal is abhorrent to business sense as well as to justice and equity.

THE LENGTH OF THE DEPRESSION.

IT is the commonly accepted theory that the trade and industrial depression following the panic of 1907 will be much shorter and much less severe than the depression that followed the panic of 1893. Very solid and convincing reasons exist to justify this view. Perhaps the most prominent among them is the fact that the condition of the farmers in the Western and Middle States is incalculably better than it was fifteen years ago. Then they were struggling with debt and mortgage, while the range of prices for what they had to sell was at a disheartening level, that seemed to promise them little or no profit for years to come. If so much comfort can be taken in the United States over the improvement in condition of the western farmers, Canada is certainly entitled to be optimistic over the great change that has come over Manitoba, Alberta and Saskatchewan during the same period. In 1893, even in the older settled parts, discouragement reigned. The bank managers at Winnipeg, Brandon, and other western centres were detailing to anxious head-offices in the East the exact status and condition of the numerous parties then figuring in the bad and doubtful debt columns. In some unfortunate districts these seemed almost to comprise the majority of the borrowers. Successful or prosperous men, whether engaged in farming or in other pursuits, had to be searched for. In what are now the richest, most prosperous districts, chattel mortgages, liens, etc., covered a large proportion of the farmers' property. The writer was told by a very rich farmer in one of these districts—a man who brought a large cash capital with him from Ontario, and lent it to other farmers on mortgages and chattel mortgages—that in 1893 nearly all his neighbours were greatly embarrassed by debts—so much so that they were not able to buy the implements they needed for cultivating their crops. They owed for the purchase money of their farms, they owed the implement dealers, the retail storekeepers, banks and private money lenders. Everybody who had money coming to him was collecting as hard as he could. The future of the country was uncertain, there had been a couple of years of poor crops, produce prices were low. A number of Eastern concerns, disheartened by the losses they had incurred and doubtful of the future, closed their western departments, and withdrew all business except the collection of their debts. In Winnipeg, which had not then more than one-third its present population, some of the most prominent houses were greatly embarrassed. The Commercial Bank of Manitoba had just failed. Its borrowing customers had to liquidate their debts or get some other banks to take them up and carry them; its depositors had their funds tied up, and some were selling their claims at a heavy discount to speculators.

A very different picture is presented to-day in that part of Canada. Doubtless the western bank branches have their bad and doubtful debts now as they had in 1893. Quite probably a considerable amount of profit will have to be appropriated to wipe them off. The difference lies in the all-important fact that the future of the western country is assured. Nobody now thinks there is any danger of retrogression. Such bad debts as have been made have been due to want of judgment in selecting the customers to whom credit might be given rather than to general bad conditions striking at the solvency of the entire western business world. The competition amongst the banks in opening branches and in pushing for business has been especially keen west of Lake Superior. There has been, moreover, something of a shortage in the material out of which suitable branch managers are made. Thus, many of the new branches have had to be placed in inexperienced hands. Quite likely, too, some of the managers with experience would allow themselves to be carried along on the strong tide of optimism that has until recently prevailed. The general buoyancy would lead them into a mistaken support of ill-starred enterprises which they imagined had good prospects of success. The head-offices cannot always detect or stop these bad loans. In any event there is now no thought of withdrawing from the west. On the contrary, many eastern concerns not yet represented there are planning and contriving for a footing. The present prosperity of the very farmers who were in such straits in the early "nineties" has become known all over the Dominion, as well as in the United States and Europe. In the district referred to—that in which the rich money-lending farmer resided—there is now almost a solid rank of men worth anything from $5,000 to $40,000, quite a few having practically no debts at all. Of course there are in every neighbourhood men engaged in farming who have undertaken more than they can handle and who are struggling under too much debt. These are to be found always and everywhere—and in other pursuits than farming. But the body of the farming class are in excellent condition. The value of their farms per acre is twice and three times what it was fifteen years ago; the prices of the products they have to sell are high enough to give them good profits, and likely to remain so. The coming of new railroads has improved their circumstances; and they have been benefited and will be benefited still more, by the tide of immigration, which shows no sign of setting.

From these and other circumstances it is clear that conditions in the West are on a vastly improved basis compared with what they were in 1893. In Ontario, Quebec and the Maritime Provinces the record has been one of solid and uninterrupted progress. These are old and wealthy. The articles and commodities produced are so varied and have such steady markets that no year passes without prosperity existing in some important lines. In the period there has been quite a notable increase in the manufacturing plants, many of them being established by American or British corporations or firms. It is in connection with the industrial plants that depression always makes itself most manifest. Orders grow light, and stocks show a tendency to accumulate; to keep down costs, hands have to be discharged.

After 1893 there were five or six long, weary years before business began to pick up in earnest. The question is, how long before signs of improvement take place in the present instance? Usually the stock markets give the first sign. Since the Spring commenced the Wall Street barometer has appeared to point quite strongly to fairer weather for considerable stretches at a time. Some very important rises in representative quotations have been scored. In May the rise was especially vigorous. Towards the close of the month a collapse occurred. More than the ordinary interest will attach to Wall Street's doings until it is established whether the market's rise represented the discounting or anticipation of a decided trade revival some months ahead, or whether it was merely the result of manipulation by powerful interests. It is to be remembered that, owing to the long and heavy liquidation in securities following the panic, and the cessation of new stock and bond issues, the technical position of the stock market would become extremely favourable for a rise. The small investor has been exceptionally busy in Wall Street since last October—drawing upon his accumulated savings and buying and taking out of the Street the stocks of the standard dividend payers. Then, after a panic, the bears always overdo their short selling just as the bulls always overdo the buying in prosperous times. Thus it comes about that the great banking and financial interests are often in position, several months after a panic, to bring about an important rise whenever they choose to exert themselves—this, no matter whether trade and industry are to have an immediate revival or not. Usually, however, they do not consider it wise to stir up speculation until the times are opportune. An important rise in stocks always excites the speculative spirit. People who bought during or after the panic, gain large paper profits. Others hear of them, and the speculators begin to flock into the brokers' offices, desirous of making purchases on margin. After a great break-down the financial machinery may be weak in divers places. A too-quick resumption of activity might sometimes bring on further disasters. That is why the bankers are satisfied to have quiet times succeeding a panic.

The experts are now closely watching in other quarters for the proofs of the asseverations that the market's action discounts the lifting of the depression. It will probably be a while before it is demonstrated to the satisfaction of all whether recovery is at hand, or whether the rise represented a premature putting forth of their strength by the big market-manipulators. There are a number of indications pointing to the former conclusion. The crop outlook on both sides the international boundary is, at the time of writing, excellent; the number of idle cars in railway yards and sidings is decreasing somewhat; the iron and cotton industries show some improvement; some workmen who were thrown out of employment are being taken back.

So far as the Dominion is concerned the construction work on our great railway projects is certain to go ahead; the inpour of a good class of immigrants certain to continue. These two factors of themselves have an important bearing upon the work and orders that will fall to the industrial plants in every part of the country.

All over the world the strain on the banking institutions has appreciably relaxed. By the end of the summer the indications are that the Canadian banks will have strengthened themselves very materially through accessions of deposits.

Notwithstanding the many favourable signs that are in evidence quite probably the bankers and captains of industry are not anticipating any very sudden end to the depression. Rather they would be inclined to expect a gradual resumption—a few men re-employed in one shop, a hundred in another, with, perhaps, a couple of years to elapse before full forces, as employed in 1906-7, are again at work. There are some things to be said on the other side. The cost of living is still exceedingly high, the cost of manufacture and of production are high; wages have not come down much. The experience of the past shows that a prosperous era gets a better start and is apt to be more lengthy when it commences with costs of all kinds well down. Should we jump at once into another boom there would be considerable danger of its collapse long before the usual cycle of years was completed, and it is quite possible that the panic of 1907 would be followed by the panic of 1911 or 1912. Indeed, if there were no other consideration than the money consideration the lack of fluid capital would, perhaps, be sufficient to prevent a too-early revival. Though the position of the banks in New York, London, Paris, and in Canada has become much stronger in the last few months, they would not yet be ready to take up the burden they carried in 1906-7. The people, their depositors, and the people, investors in securities, have got to save and accumulate for a few years before conditions are ripe for another boom. That does not preclude the possibility of the most satisfying progress being made in the interim. As already pointed out, there is every indication that that progress will be made. Our population may grow, our farmers better their circumstances, our industries increase and prosper, our workingmen find more employment and accumulate savings, our railroads expand their traffic without our having a boom. There might also be, and probably will be, quite a considerable amount of speculation—in real estate, mines, stocks, produce, etc.—going on in a quiet way. The all-important circumstance would be that the business of the country was going forward under perfect regulation and control. The ordinary course is for it to do so, the pace getting swifter and swifter, until the machinery gets out of hand, which means a boom, followed by a collapse. Then the drivers get control again, and after a more or less lengthy interval, the process is repeated.

If the current expectations—that the coming winter will see a substantial recovery—are realized, the fact will have an important bearing on the profits of the banks. The bankers have a vivid recollection of the way in which their loanable funds heaped up during the years 1894 to 1898, and of how difficult it was to find suitable investment or employment for them. The annual reports issued in that period fully reflect those discouraging conditions. Unless some important adverse developments occur it is not to be expected that they will be repeated. Nearly everybody now has the consciousness that the Dominion is just at the outset of a great stride in development. The depression is looked upon as affording a needed breathing spell. Capital has a big work before it, and must have time to gather its forces.

H. M. P. Eckardt.

ASSET CURRENCY IN CANADA.

By A. C. **Steven**, of the Canadian Bank of Commerce, New York.

DURING this period of financial legislation, as a result of the panic of 1907, it is interesting to note, that in Canada there has been no such agitation, due doubtless to the fact that the law under which the banks are chartered is revised at regular intervals. This discussion of financial affairs in general, and banking methods in particular, results in the framing of laws, calculated to promote a banking system, which will be equal to the requirements of the business community. Banking in Canada as it stands to-day is, therefore, not the creation of a hard and fast law made in 1870, when the first Bank Act was passed, but rather the result of a succession of laws, each throwing additional safeguards around a system excellent even at the outset. Although legislation may occur oftener, it is compulsory that the Bank Act come up for revision every ten years, when the charters of the various banks are renewed, and the questions in regard to banking come before the House for discussion. Probably no question has received more attention, at these decennial periods, than the note issue, which in its present condition, lends itself admirably to the requirements of the country.

Government Issues of Limited Use.

It may be said at the outset that the Dominion Government also issues notes in volume almost equal to those of the banks. About two-thirds of this, however, is not in active circulation, consisting as it does of notes of the larger denominations ranging from $500 to $5,000, which are held almost entirely by the banks as reserve, and for clearing-house settlements. The remaining one-third is made up of $4, $2, and $1 notes, which supply the hand-to-hand currency of the country. The banks in Canada are permitted to issue notes of $5 and multiples thereof, to the extent of their paid-up capital, but in no case unless the amount subscribed be half a million dollars, with $250,000 actually paid in. The balance must be paid up within two years. This circulation reaches a field not covered by the Dominion notes, and the two issues are by no means competitive. The Government notes in actual circulation are of the smaller denominations, and naturally the amount outstanding is not great. It is interesting to note, then, that almost the entire issue of the circulating medium in Canada is supplied by the chartered banks.

Bond Security Not Required for Bank Notes.

Contrary to the system in vogue in the United States, the Canadian bank note issue is not secured by Government bonds, nor by a special pledge of gold as is the case in various countries, but by the general assets or credits of the bank, hence the name, "asset currency." This form of security is greater than appears at first sight. The law provides that in case of failure the note issue is the first lien upon every available asset of the bank. Even the deposits of the Government have no prior claim. As an example of the strength of this provision, the notes in circulation of all the banks, in comparison with the total assets, will be found to be one to twelve, and even in times of greatest expansion less than one-tenth. It would indeed be a disastrous failure should any bank be unable to pay ten cents on the dollar.

The double liability clause is an additional safeguard, not only to the note-holders, but to the depositors as well. In case of failure, with assets insufficient to liquidate the note issue, or other liabilities, the stockholders of the bank are compelled to surrender an amount equal to the par value of the shares standing in their names.

To overissue, even for one day, is strictly against the law, and by way of punishment, the Government imposes a heavy fine, ranging as high as $100,000. In periods of great commercial activity care must be exercised to keep within the limit prescribed by law. In order to make this supervision more complete, in 1900, the Bank Act was revised, so as to permit an officer of the Canadian Bankers' Association to audit the circulation books of the various banks and certify to the amount outstanding.

Absolute Safety of the Notes.

When the Bank Act came up for consideration in 1890, a provision was made requiring the banks to lodge with the Government an amount equal to five per cent. of the notes in circulation. The deposit is adjusted yearly, and made up on the average maximum issue, as shown in the monthly balance sheets, filed with the Minister of Finance. On this Bank Circulation Redemption Fund, as it is called, the Government allows interest at the rate of three per cent., and in case the receiver of a suspended bank, at the expiration of two months, be unable to redeem the notes, they are charged to this fund, which is later reimbursed from the assets of the failed bank. It is interesting to note, at this point, that not one dollar of the fund has ever been required. The law further provides for additional calls on the banks, in case of necessity, until every bank note has been redeemed. This provision is worthy of further consideration, so far-reaching is the effect. It is, in fact, an absolute guarantee of payment of all the notes of the chartered banks in Canada. In other words, this amendment to the law calls for the hypothecation of every available asset of all the banks in Canada to the redemption of the notes of any one bank, or number of banks. There can be no greater security than this, and it is not extravagant to say that the safety of a bank note issue governed by such laws is absolutely unquestioned.

Adaptability to Business Needs.

The model currency is one which works hand in hand with the business of the country, or, so to speak, is the direct result of business demand. Should the demand increase or decrease, the supply of notes must in all cases follow. This element of elasticity is absolutely necessary to a note issue which it is expected will adequately supply the wants of the business community. It cannot be said that the notes of the national banks of the United States possess this virtue, and under the present law they never will. It is amazing that they should still be bound by a law passed as early as 1863, with the direct object in view of maintaining a market for Government bonds. When the very fundamentals are at fault, it is not surprising that the currency problem in the United States is a most intricate one.

In times of great commercial activity, and especially during the fall when the crops are in motion, the feature of elasticity is most prominently brought to our notice. The farmer is the backbone of the country. His crops determine the course of prices and whether or not the year will be one of prosperity. He is not a dealer in checks or drafts; to conduct his business cash is required, and in increasing quantities during the crop-moving period. As previously stated, with the exception of the small change-making notes, the Canadian banks are called upon to supply almost the entire circulating medium, and notwithstanding the extra strain to which they are subject, have always been equal to this demand. The increase at such a time will vary from twenty-five to forty per cent. above the low period. When their work has been accomplished, the notes are returned to the banks and placed in the tills in readiness for further use.

Naturally the question arises as to how such an increase in the circulating power is accomplished. Simply by the bankers being far seeing enough to anticipate the demand by keeping the paid-up capital of their respective banks considerably in excess of notes outstanding. The branch system of banking affords them splendid opportunities of viewing the business of the country from all sides. Many of the banks have already applied to the Government for permission to increase the capital stock which may be offered to the shareholders at short notice. As the new stock is paid up, the relative amount of additional notes is issued. As will be shown later, it is profitable to issue bank notes in Canada. So long as it remains profitable (and there is no reason to expect that it should at any time be otherwise) the banks will make every effort to keep their notes in circulation, and as the demand increases, so will the amount of the paid-up capital to a corresponding degree. The demand, of course, is due to business activity and is supplied by the banks because to do so is remunerative. The success of the note issue is dependent largely upon this fact.

How Surplus Notes Are Retired.

Having shown how the increase is effected, let us now consider the fate of the bank notes during the quieter periods. After a heavy fall season naturally the volume of business is reduced, and fewer notes being required they are deposited by the public in the ordinary course of business. A bank in receipt of its own notes will reissue them after separating the soiled and mutilated, which are sent to the head office for destruction. The notes of other banks, however, are passed through the clearing-house in the same manner as checks, drafts and other demand items. In the smaller towns, where there are no clearing-houses, settlement is made direct and the outside notes are sent to the nearest clearing point. Balances at the clearing-house are settled daily in legal-tender notes or gold. Competition between the banks is very keen, and naturally their efforts are directed towards keeping their own notes in circulation and their own notes only. This results in the daily redemption of all surplus notes, and prevents the issue from being inflated. This measure is so effective as to preclude the possibility of a greater issue of notes than is actually required.

The branch system of banking is a splendid medium for the circulation of notes, and in many districts the issue remains outstanding for a considerable length of time. In order to keep the notes at par, the banks are compelled to establish redemption agents in the principal financial districts of the country. This does not mean, however, that it is compulsory for all banks to open branches at these various points, as the work can be readily performed by those already established. In this manner the notes of an eastern bank pass current in the far west, and are not subject to discount or to delay in redemption.

Imperfections of the National Bank Notes.

It cannot be said that the extraordinary demand for cash during the fall is readily met in the United States. It is unprofitable for the national banks to take out circulation. Even should the prevailing rate of interest during the stringent period show a profit in the issue the law limiting the redemption of all bank notes to nine million dollars per month, places an effective check on the desire of a bank to issue notes from a remunerative point of view. This clause entirely eliminates the possibility of elasticity, in fact, is directly responsible for inflation. The notes are thus kept in circulation after their work has been accomplished, and they long since should have been retired. No reform in the currency laws can be accomplished while this clause remains in force. Because it is not profitable, then, the banks do not supply sufficient notes to meet the crop-moving demand. The Government notes are next resorted to. These, however, are held by the banks as reserve against their deposits, the proportion of the former to the latter being arbitrarily fixed by the National Banking Law. As this limit is approached the banks are forced to provide funds by disposing of their most available assets and liquidating the short-term loans. Although the country districts are also affected, the greatest strain falls upon the money centres where credits must be reduced wholesale and the rate for call money often reaches exorbitant figures.

In this connection it is worthy of note that the Bank Act does not require the banks in Canada to carry a fixed reserve against their deposits. Sound banking, however, does, and few banks will be found to carry in their own vaults a smaller proportion of reserve than ten per cent. of their deposits. In many cases the readily available assets will amount to from three to four times this ratio. The extra demand for cash, during the moving of the crops, is supplied almost entirely by the notes of the chartered banks and thus their reserves are in no way impaired. Credit is undisturbed and the rates of interest and discount remain practically unchanged.

The question of convertibility of bank notes in Canada requires little comment. It is directly connected with, in fact is accomplished by, the daily redemption between the banks already described. Notes presented over the counter must be paid in gold if the holder so desires, but this demand is seldom made. Even in the case of a failed bank the note holder has little cause for worry, for, from the date of suspension until the notes are redeemed, they bear interest at the rate of five per cent. per annum. Instead of being quoted below par, as might be expected under such circumstances, they actually sell at a premium.

Profit on the Canadian Bank Notes.

It is extremely profitable to take out circulation under the provisions of the Bank Act. A bank commencing business will probably find difficulty in circulating its notes extensively during the first year or so, its business at the outset being small. However, the note issue increases as the bank grows in strength until it is finally equal to the paid-up capital. The amount of notes in circulation is practically equivalent to a deposit without interest. There is no tax on the issue, and the banks are not required to pledge bonds against the amount outstanding, as is the case in the United States, nor are they compelled to make a specific pledge to carry gold as security. The profit, then, is limited to the rate of interest prevailing in the different districts and should be fractionally greater in the west. Allowance must be made for the numerous expenses of the issue, consisting of the cost of maintaining redemption agents, engraving, express charges or insurance, etc. The loss of interest entailed by the actual reserve in gold and legal tenders, which the banks through experience have found it advisable to hold for the purpose of redemption, should also be deducted. The net profit, however, on the bank note issue in Canada is variously estimated at from four to five per cent. A point worthy of note is the economy of an issue governed by such laws. The notes not in circulation remain in the treasury ready for use at a moment's notice and do not become a liability until actually paid over the counter.

It must be said, in all fairness, that the question has recently been discussed as to whether or not the note issue will in the future be adequate during the height of the grain-moving season. As previously shown, this extra strain is met by the paid-up capitals of the various banks, being kept greatly in excess of their usual amount of notes in circulation. However, in times of stress or panic certain conditions might prevail which would make it unwise to offer stock to the shareholders. It has been suggested that during such times as we have just passed through it would be well to have power to issue an emergency currency. Probably during the next revision of the Bank Act, in 1911, or perhaps even at an earlier date, such a measure will be introduced. From this it must not be understood that the bank-note issue in Canada is inadequate, far from it, for so far it has always been equal to the demand, and any such amendment as the foregoing would be merely in the nature of an extra precaution.

Time has demonstrated that bank notes in Canada are absolutely safe. With one unimportant exception occurring in the early seventies, before the later safeguards were embodied in the law as it stands to-day, no bank suspending payment ever failed to redeem its notes in full. Unquestionably, the volume of notes in existence works hand in hand with, and is directly dependent upon, business conditions. This feature of elasticity, it has been shown, is directly due to: First, the business demand, coupled with the fact that it is profitable to the banks, thus causing expansion; and, second, to the keen competition between banks,, resulting in quick redemption, which is an effective curb on the issue. Doubtless one of the most far-reaching provisions of the Bank Act, is the law authorizing its revision at regular intervals. It is due to this, more than to any other feature, that the note issue of the Canadian chartered banks has reached its present state of perfection. Such legislation, prompted by the far sightedness of the leading bank men, has produced a system of banking in Canada which has placed it amongst the foremost of the world to-day.

Asset Currency as Applied to the United States.

It is evident that banking reform in the United States has not kept pace with changing conditions. Banking methods as a whole, and especially in regard to the currency question, have of late been subject to such overwhelming criticism that legislation of a remedial nature must take place at an early date. Although the Banking Law was amended in 1900, making it more attractive for the banks to take out circulation, the amendment was the direct result of the Government to benefit by a lower priced bond being used as security. Here again, as was the case when the original law was passed, we have an example of legislation, prompted, not by the requirements of trade and commerce, but with the end in view of reducing the interest on the national debt. Under such conditions, it is not surprising that the present system of bank note circulation has failed to provide the country with a currency issue of an elastic nature, directly governed by business demands. The Aldrich bill which has recently passed the Senate, not only provides for an emergency currency along somewhat similar lines, but places its stamp of approval upon the essential points of the law as it stands to-day—a law wrong in principle, and one which should be speedily abolished. At best, such a measure would be of value in times of panic only, and in the meantime no provision has been made for a sound and flexible currency, governed by the laws of demand and supply. It would seem that reform of a more radical nature were necessary in order that this end might be attained.

The Fowler Bill Approved.

On the other hand, the proposed Fowler bill represents a studied endeavour to reform the currency laws, based directly upon the needs of the business community. Its principal features have already met with the approval of many of the leading bank men not only of New York, but throughout the country as well. It has been claimed that the bill attempts too much, but the condition of banking in the United States to-day calls for a thorough discussion of its underlying principles, and no reform of any account can be accomplished until the currency question has been thoroughly thrashed out. The Fowler bill is undoubtedly an important step in this direction. It seeks to provide for a sound and elastic circulating medium, the retirement of the present bond-secured circulation, and the elimination of the Treasury as a disturbing element to the banks as a whole. It is proposed to supply the country with an issue of bank-notes secured by commercial paper and other credits or assets of the banks. Provision is also made for the deposit with the Government of a guarantee fund equal to five per cent. of the notes outstanding. In order that the redemption of all surplus notes may be prompt, it is proposed to divide the country into districts, with a central point in each, to be used by the surrounding banks for clearing purposes. At these redemption agencies the banks are compelled to hold in lawful money, as reserve, a certain proportion of their notes in circulation, the ratio varying with respect to their classification as central reserve, reserve, or country banks.

The chief features of the Fowler bill in regard to the note issue are almost identical in principle with those governed by the Bank Act in Canada. In both the banks are permitted to issue notes to the extent of their paid-up capital, although the Fowler bill, under certain restrictions provides for an emergency issue above this point. The security in both cases is based upon the general assets or credits of the banks. In the Fowler bill provision is made for the holding by the banks of a fixed reserve in lawful money, not exceeding twenty-five per cent. of the notes outstanding, while in Canada although there is no such law, experience has demonstrated the necessity of holding for this purpose a certain proportion of legal tender notes and gold. The five per cent. redemption or guarantee fund, to which the notes of an insolvent bank are charged should the other assets be insufficient, corresponds in a measure with the Bank Circulation Redemption Fund of the Canadian system, and in both cases this amount, which is deposited with the Government, is interest-bearing. As in Canada, provision is made for the division of the country into sections so as to insure the immediate retirement of all surplus notes. At these redemption agencies, and at the counters of the issuing banks, payment must be made in gold upon demand. In short, should the Fowler bill become law, the national banks of the United States would possess a note issue similar to that of the Chartered Banks in Canada, with respect to the following:

I. Notes issued up to paid-up capital.
II. Based upon a certain proportion of gold as reserve.
III. Secured by the credit and assets of the issuing bank.
IV. The five per cent. guarantee fund deposited with the Government.
V. The establishing of redemption agencies throughout the country.
VI. Notes payable in gold on presentation.
VII. Double liability of shareholders as additional security to notes.

An interesting feature, though not in relation to the currency question, is the provision for a guarantee fund as security to the depositors. It is surprising that such a clause should have been inserted in the Fowler bill. It is in reality as reasonable to insure the loans of a bank as the deposits; in fact, more so, for in the event of the former being specially secured, the depositors would undoubtedly be paid in full. Deposits are the foundation of banking. They are the result of confidence which is brought about by the integrity and ability of bank men. Such legislation would place all banks upon a common basis regardless of standing and efficiency. Any provision resulting in the tendency to eliminate such characteristics cannot be too strongly condemned.

Safety is the first requisite of a note issue, and the question as to whether the Fowler bill properly secures the noteholder is at present the subject of much discussion. The five per cent fund deposited with the Government is an important provision. In addition to the security thus afforded, it tends to draw the banks closer together. Any depletion of the fund must be made good by the banks as a whole, and they are to this extent, at least, directly interested in the solvency of their neighbours. The holding of a certain proportion of lawful money in the redemption cities is an additional safeguard, but the main security is the pledging of all credits or assets against the notes in circulation. But at this point the Fowler bill goes further. It distinctly states that the general assets of the bank shall also be held against the deposits, placing both liabilities upon the same basis. While it is undisputed that they are similar with reference to the bank, in their use to the public the difference is significant. This was firmly fixed in the minds of those who framed the National Banking Law of 1863 when the notes were made at least four times as secure as the deposits. Depositors willingly accepted the obligation of a bank of their own choosing, but noteholders of a comparatively unknown bank, far from the point of redemption, receive these acknowledgments of debt only because they are absolutely secure. The credit of the national banking system would be little affected by the failure of local banks, showing loss to depositors, but should the notes, scattered throughout the country, fail of redemption, the uncertainty and distrust of such a note issue would indeed be widespread. In Canada the note issue is the first lien upon a bank's assets. It is worthy of note that in the proposed reform measure of the American Bankers' Association, this safeguard is also given great prominence. The proportion of notes to deposits is so small that this preference is not marked, but it acts as a blanket mortgage toward the note issue. If the present bond secured circulation is to be eliminated, it must be replaced by one equally safe, and should such a provision as the foregoing be embodied in the Fowler bill, it would go far towards making the notes absolutely secure.

Next in importance to security comes the question of elasticity. It is evident that the Fowler bill has made ample provision for this feature. The demand for notes is directly based upon the requirements of trade and commerce and the supply expands and contracts in response to the expansion and contraction of business. Notwithstanding the two per cent. tax, the issue would be profitable to the banks, and this incentive to take out circulation would tend to keep the amount outstanding at a high figure. But the very fact of the banks having this idea of profit in mind would cause them to direct their efforts towards immediately retiring the notes of their competitors. The prompt return in this manner through the redemption agencies, and over the counter, would adequately prevent inflation and the note issue would at all times be automatically adjusted to the country's needs. The notes thus retired would be held in readiness for a further call, and although the desire and power to issue are always present as far as the banks are concerned, to complete the transaction there must be a demand on the part of the public for actual cash. It will be seen that the redemption agencies play a most important part in the machinery of a note issue. In the Fowler bill it is proposed to divide the country into sections with a chief point in each, where the notes of the surrounding banks are to be redeemed. These central cities must be so situated as to be not more than twenty-four hours distant from any national bank. Should the details of this plan be properly carried out, the redemption facilities will doubtless be equal to those of the large European banks of issue and the banks in Canada under the branch system of banking.

A Flexible Currency Aids Crop Moving.

While the value of a flexible currency system is at all times noticeable, it is during the crop-moving period that its usefulness is most apparent. The tremendous increase in the amount of cash required at this season is at present met, to a great extent, by the Government issues, held by the banks as reserve, and upon which their very foundation rests. Any reduction below the limit fixed by law results in curtailment of credit to such an extent as to seriously restrict the business of the country as a whole. Under a proper system of asset currency the demand for cash would be almost entirely supplied by the note issue, thus leaving the Government notes and gold undisturbed to perform their duty as reserve. Reduction of credit would be unnecessary, and the present tendency of sky-rocket rates for commercial paper and call money would be eliminated.

Even the most ardent supporters of the Fowler bill cannot hope for its adoption in detail, but it is undoubtedly sound in principle, and its chief features should be enacted into law. Its greatest stumbling-block, however, is the present system of Government finance, especially the use of bonds as security to bank notes, a system founded when the credit of the country was impaired, and the use for which has long since disappeared. The public is daily becoming more alive to the dangers of a bond-secured circulation, and should it become a question for the country to decide, as is by no means unlikely, the result would not remain for long in doubt.

Its use in other countries has shown the system of credit currency secured by commercial paper and other assets to be absolutely safe, and there is no valid reason why it should not be applied to the national banks of the United States. On account of the large number of banks, however, and many with small capital and reserve funds, it would be well, as an additional precaution, to make the note issue the first lien upon a bank's assets. Unquestionably a circulating medium governed by such laws would fluctuate directly with business requirements, in fact, would reflect, in volume, the specific demand for cash, rising and falling at all times as a result of prevailing conditions.

Not only would the issue in itself show a handsome profit, but the tills would be filled with a form of money, representing no previous investment, and one which would not figure as an obligation until actually paid out. In the present system this till money is responsible for the curtailment of lending power of several times the amount involved.

With proper safeguards, then, "asset currency" would be equal in safety to a note issue secured by Government bonds, and in regard to elasticity, profit and economy immeasurably superior. Should such a system be finally adopted, it would tend to materially correct the ills which exist in the present system of banking in the United States.

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